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Fourteenth Session, 1975/1897 (Saka)

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NEW DELHI

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LOK SABHA

Wednesday, July 23, 1975/*Sravana* 1, 1897 (*Saka*)

The Lok Sabha met at Eleven of the Clock

[MR SPEAKER *in the Chair*]

PAPERS LAID ON THE TABLE

REPORT RE. COMMISSION OF RAILWAY SAFETY FOR 1974-75

THE MINISTER OF TOURISM AND CIVIL AVIATION (SHRI RAJ BAHADUR): I beg to lay on the Table a copy of the Report (Hindi and English versions) on the working of the Commission of Railway Safety for the year 1973-74. [*Placed in Library. See* No. LT-9806/75].

ANNUAL REPORT OF DEVELOPMENT COUNCIL FOR AUTOMOBILES, AUTOMOBILE ANCILLARY INDUSTRIES ETC. FOR 1972-73

THE DEPUTY MINISTER IN THE MINISTRY OF EDUCATION AND SOCIAL WELFARE AND IN THE DEPARTMENT OF CULTURE (SHRI D. P. YADAV): I beg to lay on the Table a copy of the Annual Report (Hindi and English versions) of the Development Council for Automobiles, Automobile Ancillary Industries, Transport Vehicles Industries, Tractors, Earthmoving Equipment and Internal Combustion Engines for the year 1972-73, under sub-section (4) of section 7 of the Industries (Development and Regulation) Act, 1951. [*Placed in Library. See* No. LT-9807/75].

NOTIFICATIONS UNDER ALL INDIA SERVICES ACT, 1951 AND CITIZENSHIP ACT, 1955 AND UPSC (MEMBERS) AMDT. REGULATIONS, 1975

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): I beg to lay on the Table:

(1) A copy each of the following Notifications (Hindi and English versions) under sub-section (2) of section 3 of the All India Services Act, 1951:—

(i) The Indian Administrative Service (Fixation of Cadre Strength) Twelfth Amendment Regulations, 1975, published in Notification No. G.S.R. 292(E) in Gazette of India dated the 23rd May, 1975.

(ii) The Indian Administrative Service (Pay) Eighth Amendment Rules, 1975, published in Notification No. G.S.R. 293(E) in Gazette of India dated the 23rd May, 1975.

(iii) The Indian Administrative Service (Fixation of Cadre Strength) Thirteenth Amendment Regulations, 1975, published in Notification No. G.S.R. 295(E) in Gazette of India dated the 26th May, 1975.

(iv) The Indian Administrative Service (Pay) Ninth Amendment Rules, 1975, published in Notification No. G.S.R. 296(E) in Gazette of India dated the 26th May, 1975.

(v) The Indian Administrative Service (Fixation of Cadre Strength) Fourteenth Amendment Regulations, 1975, published in Notification No. G.S.R. 304(E) in Gazette of India dated the 28th May, 1975.

(vi) The Indian Administrative Service (Pay) Tenth Amendment Rules, 1975, published in Notification No. G.S.R. 305(E) in Gazette of India dated the 28th May, 1975.

(vii) The Indian Police Service (Pay) Fourth Amendment Rules, 1975, published in Notification No. G.S.R. 651 in Gazette of India dated the 31st May, 1975.

(viii) The Indian Administrative Service (Pay) Eleventh Amendment Rules, 1975, published in Notification No. G.S.R. 752 in Gazette of India dated the 21st June, 1975.

(ix) The Indian Police Service (Pay) Eighth Amendment Rules, 1975 published in Notification of G.S.R. 753 in Gazette of India dated the 21st June, 1975.

(x) The All India Services (Leave) Second Amendment Rules, 1975, published in Notification No. G.S.R. 754 in Gazette of India dated the 21st June, 1975.

(xi) The Indian Administrative Service (Fixation of Cadre Strength) Fifteenth Amendment Regulations, 1975, published in Notification No. G.S.R. 344(E) in Gazette of India dated the 25th June, 1975.

(xii) The Indian Administrative Service (Pay) Twelfth Amendment Rules, 1975, published in Notification No. G.S.R. 345(E) in Gazette of India dated the 25th June, 1975.

(xiii) The Indian Police Service (Fixation of Cadre Strength) Third Amendment Regulations, 1975, published in Notification No. G.S.R. 346(E) in Gazette of India dated the 25th June, 1975.

(xiv) The Indian Police Service (Pay) Fifth Amendment Rules, 1975, published in Notification No. G.S.R. 347(E) in Gazette of India dated the 25th June, 1975.

(xv) The Indian Police Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1975, published in Notification No. G.S.R. 348(E) in Gazette of Indian dated the 25th June, 1975.

(xvi) The Indian Police Service (Pay) Sixth Amendment Rules, 1975, published in Notification No. G.S.R. 349(E) in Gazette of India dated the 25th June, 1975.

(xvii) The Indian Police Service (Fixation of Cadre Strength) Fifth Amendment Regulations, 1975, published in Notification No. G.S.R. 350(E) in Gazette of India dated the 25th June, 1975.

(xviii) The Indian Police Service (Pay) Seventh Amendment Rules, 1975, published in Notification No. G.S.R. 351(E) in Gazette of India dated the 25th June, 1975.

(xix) The Indian Forest Service (Pay) Second Amendment Rules, 1975, published in Notification No. G.S.R. 781 in Gazette of India dated the 28th June, 1975. [*Placed in Library. See* No. LT-9808/75].

(2) A copy each of the following Notifications (Hindi and English versions) under sub-section (4) of section 18 of the Citizenship Act, 1955:—

(i) S.O. 215(E) published in Gazette of India dated the 16th May, 1975.

(ii) S.O. 216(E) published in Gazette of India dated the 16th May, 1975, extending the Citizens (Registration at Indian Consulates) Rules, 1956 to the State of Sikkim. [*Placed in Library. See* No. LT-9809/75].

(3) A copy of the Union Public Service Commission (Members) Amendment Regulations, 1975 (Hindi and English versions) published in Notification No. G.S.R. 614 in Gazette of India dated the 24th May, 1975, issued under article 318 of the Constitution. [*Placed in Library. See* No. LT-9810/75].

ANNUAL REPORT OF GENERAL INSURANCE CORPN. OF INDIA FOR 1973 AND NOTIFICATIONS

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB KUMAR MUKHERJEE): I beg to lay on the Table:

(1) A copy of the Annual Report (Hindi and English versions) of the General Insurance Corporation of India, Bombay for the year ended 31st December, 1973, along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon, under sub-section (1) of section 619A of the Companies Act, 1956. [*Placed in Library. See* No. LT-9811/75].

(2) A copy each of the following Notifications (Hindi and English versions) under section 156 of the Customs Act, 1962:—

(i) The Baggage (Amendment) Rules, 1975, published in Notification No. G.S.R. 341(E) in Gazette of India dated the 24th June, 1975, together with an explanatory memorandum.

(ii) The Transfer of Residence (Amendment) Rules, 1975, published in Notification No. G.S.R. 342(E) in Gazette of India dated the 24th June, 1975, together with an explanatory memorandum [*Placed in Library. See* No. LT-9812/75].

(3) A copy each of the following Notifications (Hindi and English versions) issued under the Central Excise Rules 1944:—

(i) G.S.R. 733 published in Gazette of India dated the 14th June, 1975 together with an explanatory memorandum

(ii) G.S.R. 811 published in Gazette of India dated the 5th July, 1975, together with an explanatory memorandum.

(iii) G.S.R. 393(E) published in Gazette of India dated the 1st July, 1975 together with an explanatory memorandum.

(iv) G.S.R. 409(E) to G S.R. 412(E) published in Gazette of India dated the 15th July, 1975 together with an explanatory memorandum. [*Placed in Library. See* No. LT-9813/75].

(4) A copy of Notification No. G.S.R. 323(E) (Hindi and English versions) published in Gazette of India dated the 6th June, 1975 containing the Agreement between the Government of India and the Government of Belgium for the avoidance of double texation and the prevention of fiscal evasion with respect to taxes on income, issued under section 90 of the Income-tax Act, 1961 and section 24A of the Companies (Profits) Surtax Act, 1964, together with Corrigenda thereto published in Notification Nos. G.S.R. 416(E) and G.S.R. 417(E) dated the 18th July, 1975. [*Placed in Library. See* No. LT-9814/75].

STATEMENT RE. TWO ACCIDENTS ON SOUTH CENTRAL RAILWAY

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS (SHRI MOHD. SHAFI QURESHI): I beg to lay on the Table a statement regarding two accidents at unmanned level crossings on South Central Railway on the 19th May, 1975 and 15th June, 1975. [*Placed in Library. See* No. LT-9815/75].

SAILING VESSELS (INSPECTION) AMDT. RULES, 1975 UNDER MERCHANT SHIPPING ACT, 1958 AND A STATEMEN

THE MINISTER OF STATE IN THE MINISTRY OF SHIPPING AND TRANSPORT (SHRI H. M. TRIVEDI): I beg to lay on the Table:

(i) A copy of the Sailing Vessels (Inspection) Amendment Rules, 1975 (Hindi and English versions) published in Notification No. S.O. 1041 in Gazette of India dated the 5th April, 1975 under sub-section (3) of section 458 of the Merchant Shipping Act, 1958.

(ii) A statement (Hindi and English versions) showing reasons for delay in laying the above Notification. [*Placed in Library. See* No. LT-9816/75].

NOTIFICATIONS UNDER PASSPORTS ACT, 1967

THE DEPUTY MINISTER IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI BIPINPAL DAS): I beg to lay on the Table a copy each of the following Notifications (Hindi and English versions) under sub-section (3) of section 7 of the Passports Act, 1967:—

(i) The Passports (Amendment) Rules, 1975, published in Notification No. G.S.R. 325(E) in Gazette of India dated the 9th June, 1975.

(ii) G.S.R. 359(E) published in Gazette of India dated the 27th June, 1975 extending the Passports Rules, 1967 to the State of Sikkim.

(iii) The Passports (Amendment) Rules, 1975, published in Notification No. G.S.R. 360(E) in Gazette of India dated the 27th June, 1975. [*Placed in Library. See* No. LT-9817/75].

PETROLEUM PRODUCTS (SUPPLY AND DISTRIBUTION) AMDT. ORDER

THE DEPUTY MINISTER IN THE MINISTRY OF PETROLEUM AND CHEMICALS (SHRI C. P. MAJHI): I beg to lay on the Table a copy of the Petroleum Products (Supply and Distribution) Amendment Order, 1975, (Hindi and English versions) published in Notification No. G.S.R. 743 in Gazette of India dated the 14th June, 1975, under sub-section (6) of section 3 of the Essential Commodities Act, 1955. [*Placed in Library. See* No. LT-9818/75].

THE DEPUTY MINISTER IN THE MINISTRY OF COMMUNICATIONS (SHRI JAGANNATH PAHADIA): I beg to lay on the Table a Copy each of the following Reports (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(1) Annual Report of the Indian Telephone Industries limited, Bangalore, for the year 1973-74 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon

(2) Annual Report of the Hindustan Teleprinters Limited, Madras, for the year 1973-74 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-9819/75].

कर्मी मंत्रालय में उपमंत्री (प्रो० सिद्धेश्वर प्रसाद) : मैं कम्पनी अधिनियम 1956 की धारा 619 क की उपधारा (1) के अन्तर्गत निम्नलिखित पत्रों (हिन्दी तथा अंग्रेजी संस्करण) की एक-एक प्रति सभा पटल पर रखता हूं :—

(एक) ग्राम विद्युतीकरण निगम, नई दिल्ली के वर्ष 1973–74 के कार्य करण की सरकार द्वारा समीक्षा।

(दो) ग्राम विद्युतीकरण निगम, नई दिल्ली का वर्ष 1973–74 का वार्षिक प्रतिवेदन, लेखापरीक्षित लेखे तथा उन पर नियंत्रक और महालेखा परीक्षक की टिप्पणियां।

[*Placed in Library. See* No. LT-9820/75].

THE DEPUTY MINISTER IN THE MINISTRY OF EDUCATION AND SOCIAL WELFARE AND IN THE DEPARTMENT OF CULTURE (SHRI D. P. YADAV): I beg to lay on the Table:

(1) A copy each of the following papers (Hindi and English versions) under sub-section (4) of section 23 of the Institutes of Technology Act, 1961:—

(i) Certified Accounts of the Indian Institute of Technology, Kanpur, for the year 1972-73 along with the Audit Report thereon.

(ii) Certified Accounts of the Indian Institute of Technology, Madras, for the year 1972-73 along with the Audit Report thereon.

(iii) Certified Accounts of the Indian Institute of Technology, Delhi, for the year 1972-73 along with the Audit Report thereon.

(iv) Three statements (Hindi and English versions) showing reasons for delay in laying the above Accounts. [*Placed in Library. See* No. LT-9821/75].

(2) A copy of the Annual Report (Hindi and English versions) of the Sahitya Akademi, New Delhi for the year 1974. [*Placed in Library. See* No. LT-9822/75].

(3) A copy of the Annual Report of the Sangeet Natak Akademi, New Delhi, for the year 1973-74.

(4) A copy of the Annual Report of the Lalit Kala Akademi, New Delhi, for the year 1973-74.

(5) A statement (Hindi and English versions) explaining the reasons for not laying the Hindi versions of the documents mentioned at (3) and (4) above. [*Placed in Library. See* No. LT-9823/75].

(6) A copy of the Annual Report (Hindi and English versions) of the National Council of Educational Research and Training, New Delhi, for the year 1973-74. [*Placed in Library. See* No. LT-9824/75].

11.01 hrs.

MESSAGES FROM RAJYA SABHA

SECRETARY-GENERAL: Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

(i) I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on Monday, the 21st July, 1975, adopted the following motion in regard to the presentation of the Report of the Joint Committee of the Houses on the Prevention of Food Adulteration (Amendment) Bill, 1974:—

"That the time appointed for the presentation of the Report of the Joint Committee of the Houses on the Prevention of

[Secretary-General]

Food Adulteration (Amendment) Bill, 1974, be further extended up to the first day of the Ninety-fourth Session of the Rajya Sabha".

(ii) "I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on Tuesday, the 22nd July, 1975, adopted the following motion in regard to the presentation of the Report of the Joint Committee of the Houses on the Indian Penal Code (Amendment) Bill, 1972:—

"That the time appointed for the presentation of the Report of the Joint Committee of the Houses on the Indian Penal Code (Amendment) Bill, 1972, be further extended up to the last day of the Ninety-fourth Session of the Rajya Sabha".'

(iii) "I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on Tuesday, the 22nd July, 1975, adopted the following motion in regard to the presentation of the Report of the Joint Committee of the Houses on the Central and Other Societies (Regulation) Bill, 1974:—

"That the time appointed for the presentation of the Report of the joint Committee of the Houses on the Central and Other Societies (Regulation) Bill, 1974, be further extended upto the first day of the last week of the Ninety-fourth Session of the Hajya Sabha".'

11.03 hrs.

BUSINESS ADVISORY COMMITTEE

FIFTY-SIXTH REPORT

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I beg to move:

"That this House do agree with the Fifty-sixth Report of the Business Advisory Committee presented to the House on the 22nd July, 1975."

MR. SPEAKER: The question is:

"That this House do agree with the Fifty-sixth Report of the Business Advisory Committee presented to the House on the 22nd July, 1975."

The motion was adopted.

11.04 hrs.

MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) BILL*

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): I beg to move for leave to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971."

Shri Mavalankar.

Like Yesterday, the speeches will be of three minutes duration.

SHRI P. G. MAVALANKAR (Ahmedabad): I shall be as brief as possible; I shall try to abide by your direction.

Mr. Speaker, Sir, I wish to oppose the Home Minister's asking for leave to introduce this Draconian Bill, the Maintenance of Internal Security (Second Amendment) Bill, 1975. If anybody had at all any doubt or hope that the so-called democracy of India, after the 26th June 1975, has at least

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*Published in Gazette of India Extraordinary, Part II, section 2, dated 23-7-75.

some kind of a resemblance to democratic functioning, I am sure that that hope has been ultimately smashed to pieces, because this particular Bill which the Home Minister is seeking leave to introduce, clearly says in the Statement of Objects and Reasons that this is "for dealing effectively with the emergency". They whole purpose is to deal effectively with the emergency. I am quoting this from the Statement of Objects and Reasons.

Then, Sir, the second paragraph says:

> "As a view has been expressed that right to personal liberty exists in natural law or common law, apart from that right being embodied in article 21 of the Constitution, it is considered safer to insert a provision taking away such natural law or common law rights, if any".

I could never imagine the Home Minister and his colleagues under the Prime Ministership and leadership of Shrimati Indira Gandhi writing such words in the Statement of Objects and Reasons, namely,

> ". . it is considered safer to insert a provision taking away such natural law or common law rights, if any."

If that is so, let them consider going further even if they can do it, because it is still safer to eliminate us altogether, physically, mentally, intellectually and spiritually!!

My main point in opposing this Bill is this. This is the most obnoxious piece of legislation ever enacted in the recent history of India. It brings the India political system perilously near dictatorship and totalitarianism. We in India have cherished the great value of the liberty of person, and Mr. Speaker, Sir, we have done so since pre-Independence days. The Independence for which all of us together—not divided but together—had fought; even during those days, we had fought for the right of individual and his liberty based on natural law and natural justice. Therefore, I repeat, we in India have cherished the great value of the liberty of person since pre-Independence times. The person of every individual is sacrosanct. No one has the right to violate the sanctity of his person except on well-defined grounds. In fact, the history of civilization is a story of the struggle for liberty waged by the people against tyrants. The architects of our Constitution attached the greatest importance to this liberty. We felt that we had well-nigh achieved it, but now we realise from this Bill that this fond hope of the architects of our Constitution has been smashed to pieces on the 26th June, 1975 and more particularly when the hon. Home Minister has come forward to introduce this draconian Bill.

Every arrest and detention is *prima facie* unlawful. No officer of the State should have the right to violate the person of any individual without telling him as to why he is doing it and without giving him an opportunity to refute the allegations made against him This is the minimum natural right of every person. This is also called natural justice It is natural justice because even God had asked Adam before punishing him, 'Have you eaten the forbidden fruit?' and then. He had proceeded to punish him The new section which is sought to be added....

MR. SPEAKER: Mr. Mavalankar, I think, Adam must listen to the Speaker also. This is the stage to raise procedural Constitutional objection briefly and not to give quotations on Adam, Eve and God, on what had transpired between them and how we came here.

SHRI P. G. MAVALANKAR: The Amendment Bill which the Home Minister wants to introduce today with the permission of the House releases the detaining authority from his obligation even to supply the grounds of detention. He has merely to

[Shri P. G. Mavalankar]

make a declaration that it is necessary to detain the person concerned for "effectively dealing with the emergency." This reminds me of the times before the French Revolution. We are told, the history books tell us, that, before the French Revolution took place, the officers or administrators of the State were having any number of blank forms in their possession and they could write anybody's name whom they wanted to pick up and put behind the bars indefinitely and tell him only that he was being detained. Do you want to do that kind of thing here?

The Ordinance was issued on the 29th June. Why? Obviously because the beloved leaders of the people were dragged from their beds on the 26th June and taken to unknown destinations. Under section 8 of the unamended MISA, the Government were bound to give them the grounds of detention within five days, i.e., before 1st July....

MR. SPEAKER: That is not relevant at present

SHRI P. G. MAVALANKAR: The Government, obviously, had no legitimate grounds to communicate. So, that has been done away with.

Till now we were told that the MISA, after all, was not bad, there was no harm in using it because within five days the reasons for detention were to be given. Now, that is sought to be removed. Not only that, what now remains is indefinite detention at the sweet will of the Government, a Government which wants to cling to power at any cost, by any means....

MR. SPEAKER: Please conclude.

SHRI P. G. MAVALANKAR: I only want to quote Lord Atkin. During the years 1939—45, when Britain was fighting the Second World War, and even while passing through the darkest hours of the War, a great judge, Lord Atkin, sitting in the House of Lords, said:

> "Amidst the clash of arms the laws in this country are not silent."

Now, when we in India found that there was war with Pakistan, when War was there with China, and there was Emergency, we did not object to this kind of law. But now there is only internal disturbance—supposed to be so—and that is why this proposed law has come. It takes away the right of natural justice and the right of natural law and also takes away the right of the matter having to be sent to the Advisory Board. The Advisory Board is also appointed by the Government themselves. Then, why should the Board not be given the information? So, on all these grounds, I oppose this Bill and I hope, the House will not allow the Minister the leave to introduce this draconian, mischievous, dangerous and malacioua Bill in the House.

AN HON. MEMBER *rose*—

MR. SPEAKER: Only one Member is allowed at this stage and he was allowed. He is a very distinguished son of a very illustrious predecessor of mine ond I have, therefore, some soft corner for him, but he sometimes exceeds the time. Now, the question is:

> "That leave be granted to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971."

The Lok Sabha divided:

AYES

Division No 3]

[11.19 hrs.

Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.

Anand Singh, Shri
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banerjee, Shri S. M
Banerji, Shrimati Mukul
Barman, Shri R. N.
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyya, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Shekhar Singh, Shri
Chandrappan, Shri C K
Chandrashekharappa Veerabasappa Shri T. V.
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhutten Lal, Shri
Chikkalingaiah, Shri K.
Choudhury, Shri Moinul Haque
Dagu, Shri M. C.
Damani, Shri S. R.
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Deshmukh, Shri K. G.
Deshmukh, Shri Shivaji Rao S.
Dhamankar, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K R.
Gangadeb, Shri P
Garcha, Shri Devinder Singh
Gautam, Shri C. D.
Gavit, Shri T. H
Ghosh, Shri P K.
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale, Shri H. R
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra
Gowda, Shri Pampan
Gupta, Shri Indrajit
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Singh, Shri
Ishaque, Shri A. K. M.
Ismail Hossain Khan, Shri
Jadeja, Shri D. P.
Jagjivan Ram, Shri
Jeyalakshmi, Shrimati V.
Jha, Shri Bhogendra
Jha, Shri Chiranjib
Jitendra Prasad, Shri

Kadam, Shri Dattajirao
Kadam, Shri J. G.
Kadannappalli, Shri Ramachandran
Kader, Shri S. A.
Kahandole, Shri Z. M.
Kailas, Dr.
Kakodkar, Shri Purushottam
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri T. D.
Karan Singh, Dr.
Kasture, Shri A. S.
Kathamuthu, Shri M.
Kaul, Shrimati Sheila
Kavde, Shri B. R.
Kedar Nath Singh, Shri
Khadilkar, Shri R. K.
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kotrashetti, Shri A. K.
Krishnan, Shrimati Parvathi
Kureel, Shri B. N.
Kushok Bakula, Shri
Lakkappa, Shri K.
Lakshminarayanan, Shri M. R.
Lambodar Baliyar, Shri
Lutfal Haque, Shri
Mahajan, Shri Vikram
Mahajan, Shri Y. S.
Maharaj Singh, Shri
Mahishi, Dr. Sarojini
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Mallanna, Shri K.
Mandal, Shri Jagdish Narain
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Maurya, Shri B. P.
Mehta, Dr. Jivraj
Meikote, Dr. G. S.
Mirdha, Shri Nathu Ram
Mishra, Shri G. S.
Modi, Shri Shrikishan
Mohammad Yusuf, Shri
Muhammed Khuda Bukhsh, Shri
Murmu, Shri Yogesh Chandra
Muruganantham, Shri S. A.
Naik, Shri B. V.
Nanda, Shri G. L.
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon, Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R S
Pandey, Shri Sarjoo
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C.
Paokai Haokip, Shri
Parashar, Prof Narain Chand
Parikh, Shri Rasiklal
Partnasarathy, Shri P.
Paswan, Shri Ram Bhagat
Patel, Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R.
Patil, Shri Anantrao
Patil, Shri C. A.
Patil, Shri E. V. Vikhe
Patil, Shri Krishnarao
Patil, Shri S. B.
Patil, Shri T. A.
Patnaik, Shri Banamali
Patnaik, Shri J. B.
Peje, Shri S. L.
Prabodh Chandra, Shri

Pradhan, Shri Dhan Shah
Pradhani, Shri K.
Purty, Shri M. S.
Qureshi, Shri Mohd. Shafi
Raghu Ramaiah, Shri K.
Rai, Shrimati Sahodrabai
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram Dayal, Shri
Ram Prakash, Shri
Ram Singh Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramshekhar Prasad Singh, Shri
Ranabahadur Singh, Shri
Rao, Shrimati B. Radhabai A.
Rao, Shri Jagannath
Rao, Shri K Narayana
Rao, Shri M Satyanarayan
Rao, Shri Nageswara
Rao, Shri P. Ankineedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R. Varadaraja
Rathia, Shri Umed Singh
Raut, Shri Bhola
Ravi, Shri Valayar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K. Ramakrishna
Reddy, Shri M. Ram Gopal
Reddy, Shri P. Bayapa
Reddy, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram
Reddy, Shri Y. Eswara
Richhariya, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Saini, Shri Mulki Raj
Samanta, Shri S. C.
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sankata Prasad, Dr.
Sant Bux Singh, Shri
Sathe, Shri Vasant
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Savant, Shri Shankerrao
Savitri Shyam, Shrimati
Sayeed, Shri P M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shailani, Shri Chandra
Shankar Dayal Singh, Shri
Shankar Dev, Shri
Shankaranand, Shri B.
Sharma, Dr. H. P.
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shanker Dayal
Shastri, Shri Biswanarayan
Shastri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivnath Singh, Shri
Shukla, Shri B. H.
Siddayya, Shri S. M.
Siddheshwar Prasad, Prof.
Singh, Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri R. K.
Sohan Lal, Shri T.
Sokhi, Sardars Swaran Singh
Stephen, Shri C. M.
Subramaniam, Shri C.
Sudarsanam, Shri M.
Sunder Lal, Shri
Suryanarayana, Shri K.
Swaminathan, Shri R. V.
Swamy, Shri Sidrameshwar
Swaran Singh, Shri

Tarodekar, Shri V. B.
Tayyab Hussain, Shri
Thakre, Shri S. B.
Thakur, Shri Krishnarao
Tiwari, Shri Chandra Bhal Mani
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tombi Singh, Shri N.
Tulsiram, Shri V.
Uikey, Shri M. G.
Vekaria, Shri
Venkatswamy, Shri G.
Vidyalankar, Shri Amarnath
Vikal, Shri Ram Chandra
Yadav, Shri Chandrajit
Yadav, Shri D. P.
Yadav, Shri Karan Singh
Yadav, Shri R. P.
Zulfiquar Ali Khan, Shri

NOES

Agarwal, Shri Virendra
Bade, Shri R. V.
Berwa, Shri Onkar Lal
Bhattacharyya, Shri Dinen
Bhattacharyya, Shri Jagadish
Chaudhuri, Shri Tridib
Chavda, Shri K. S.
Chowhan, Shri Bharat Singh
Das, Shri R. P.
Deb, Shri Dasaratha
Deiveekan, Shri
Deo, Shri P. K.
Dharia, Shri Mohan
Durairasu, Shri A.
George, Shri Varkey
Gopalan, Shri A. K.
Haidar, Shri Madhuryya
Halder, Shri Krishna Chandra
Hazra, Shri Manoranjan
Horo, Shri N. E.
Joarder, Shri Dinesh
Joshi, Shri Jagannathrao
Kalingarayar, Shri Mohanraj
Kiruttinan, Shri Tha
Krishnan, Shri M. K.
Lakshmikanthamma, Shrimati T.
Mavalankar, Shri P. G.
Mayavan, Shri V.
Mehta, Shri P. M.
Modak, Shri Bijoy
Mohammad Ismail, Shri
Mohanty, Shri Surendra
Mukherjee, Shri Samar
Mukherjee, Shri Saroj
Nayak, Shri Baksi
Parmar, Shri Bhaljibhai
Patel, Shri H. M.
Patel, Kumari Maniben
Patel, Shri Nanubhai N.
Pillai, Shri R. Balakrishna
Ram Deo Singh, Shri
Ramkanwar, Shri
Reddy, Shri B. N.
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Saha, Shri Gadadhar
Sen, Shri Robin
Sequeira, Shri Erasmo de
Shamim, Shri S. A.
Shastri, Shri Shiv Kumar
Singh, Shri D. N.
Subravelu, Shri
Ulaganambi, Shri R. P.

MR. SPEAKER. The result* of the division is:

Ayes: 280; **Noes:** 53.

The motion was adopted.

SHRI K. BRAHMANANDA REDDY: I introduce the Bill.

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*The following Members also recorded their votes for AYES—

Sarvashri Genda Singh and N. S. Kamble.

11.18 hrs.

STATEMENT RE. MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) ORDINANCE, 1975 AND MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) ORDINANCE, 1975

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): I lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Maintenance of Internal Security (Amendment) Ordinance, 1975 and the Maintenance of Internal Security (Second Amendment) Ordinance, 1975, as required under rule 71(1) of the Rules of Procedure and Conduct of Business in Lok Sabha. [*Placed in Library. See* No. LT-9824/75].

11.19 hrs.

STATUTORY RESOLUTION RE: APPROVAL OF PROCLAMATION OF EMERGENCY—*contd.*

MR. SPEAKER: We shall now resume further discussion of the resolution approving the Proclamation of Emergency.

Shri Jagjivan Ram to continue his reply.

THE MINISTER OF AGRICULTURE AND IRRIGATION (SHRI JAGJIVAN RAM): I was saying that the House has discussed this motion for more than 14 hours and a large number of members have participated in it. The Prime Minister intervened in the debate yesterday. She made an elaborate speech and covered a much wider spectrum than what was necessary to make it comprehensible by the Members. My task has become very light.

If I were to identify members who have spoken on the motion, there are three categories—those who have supported the motion, those who have opposed it and those who have extended qualified support. Many of the arguments and objections raised by those who have not thought it wise to extend their support to this motion have been met by the members who have spoken in support of it. So, I would not cover those grounds.

Shri H. M. Patel who is a seasoned administrator does not require any enlightenment from me as to the distinction between prosecution and detention. He will certainly not require in what circumstances prosecutions should be launched and in what circumstances it will be prudent to take recourse to detention.

I would not again cover the grounds which I did while moving this motion as to the situation in the country prevailing at the time when it was thought necessary to have this proclamation. There is no doubt and it has been admitted by members directly and even those who opposed indirectly that all was not well in the country at the time this proclamation was made. Mr. Patel wondered why the country remained so calm, quite even after the proclamation. The reason is not very far to see. The people in India are generally peace loving and peaceful. Those who instigate had not the opportunity to mislead people, mislead the masses and instigate them for indiscipline and disobedience. That is a very simple reason. But the proclamation became necessary, because open incitements were being made by political leaders to the police and the armed forces as also the civilian employees of the Government to take to indiscipline and insubordination. Will Mr. Patel, as a seasoned administrator, advocate that should any Government tolerate such things? I am sure he will consult his conscience and get the direct reply that no Government would afford all this.

I would like to add one sentence that in such a situation when Government is convinced of the obvious thinking and action of some people, it may not be to the best interest of

[Shri Jagjivan Ram]

the country to launch prosecution, because the propaganda which we want to guard against will be conntinued. In that case, in such a situation, it is better to take recourse to detention than to prosecution and that is what has been done. There is no doubt that when a long rope was given to them to make all sorts of propaganda, all sorts of speeches, incitement to violence and disobedience, they thought that the Government was not likely to take any action. And when sudden and swift action was taken, they were not only taken by surprise but all their plans were frustrated.

About press, I had said something and the Prime Minister has also said. I do not think it is necessary to go into it in any greater detail. Any person will agree that the freedom of press was being misused by a section of the press and was being treated as a licence. They had bidden good bye to all sense of decency and decorum and were indulging infalsehood under the totalitarian theory that if you repeat untruth several times, it may be accepted as truth. That was what was being done. Character assassination was one part of this and this action had become necessary, though I am fully aware that some of the press which were behaving have also suffered to some extent, but not much. So it necessary to curb these things. I may assure the House that the Information and Broadcasting Ministry has worked out detailed guidelines which have been given to all who are in charge of press censorship and all legitimate news will not be censored. There is no doubt that a section of the press has specialised in vulgar abuses. Perhaps they thought that no censorship will deter such class of journalists.

Shri Gopalan made some complaint about the action of the police in Kerala. We have ascertained the facts from the Kerala Government and we would like to give some details about this incident that took place in which Mr. Gopalan was also involved. He has stated that some of his associates who were arrested with him were beaten up by the police and left on the roadside and that one MLA was stripped naked. We have ascertained the facts from the State Government. Shri A. K. Gopalan, Shri A. P. Kurien, MLA and 9 others were arrested by Ernakulam police at 10.30 A.M. on 9-7-1975 when they had gathered to demonstrate in defiance of the prohibitory orders. While Shri Gopalan and Shri Kurien were detained under MISA the others were produced before the magistrate and got remanded to custody at 9.45 P.M. the same day. It is not true that they were beaten up and left to themselves in the streets. At the time of remand they did not complain before the magistrate about any harassment or illtreatment by the police. It is relevant to add that Shri Gopalan had earlier also, in a letter dated 12-9-74 to the Prime Minister, made the allegation that Marxist party leaders and party workers were made to stand naked and beaten up on a public road. The allegation was enquired into by the State Government and found baseless. Shri Gopalan was informed of this by my colleague, the Home Minister in a letter dated 6-2-1975. I have nothing more to add to this.

SHRI A. K. GOPALAN (Palghat): On a point of personal explanation, Sir I want to know one thing You said, you got the information from the Kerala Government where the Chief Minister is not present now. Did you get this information from the Home Minister who earlier gave the orders of beating? Have you got this information from him? This is what I want to know.

Sir, when we speak of a Government, we do not make a distinction between the ministers and ministers. This is what we have received from the Kerala Government.

SHRI A. K. GOPALAN: Sir, there is a difference. Government of Kerala means State Ministers and other

ministers in Government. In Kerala, the Chief Minister has gone to Moscow. So, the Chief Minister who is now in charge is the Home Minister. So, I only want to know whether it is from the Home Minister who gave this order of beating me.

SHRI JAGJIVAN RAM: As I have said, I have nothing more to add. Shri Joshi took pains to explain that R.S.S. was a purely cultural organisation.

Sir, the House is aware of the activities and the conduct of the R.S.S. In recent times, the Bhartiya Jan Sangh and Shri Jayaprakash Narayan have come very close to each other as the Jan Sangh requires a leader of the all-India statute and, obviously, Shri Jayaprakash Narayan too requires a political party which has some cadre in the country. I will not say anything about the R.S.S. I shall just read the certificate that Shri Jayaprakash Narayan gave to R.S.S on two occasions. (*Interruptions*. will not draw any inference. I will leave it to the Members of the House to draw an inference. Soon after Gandhiji's assassination, early in 1948 Shri Jayaprakash Narayan had strongly denounced the R.S.S. and appealed to the youth to stamp out the poison of communalism from the country. I quote:

> "RSS organisation is like an iceberg, a part of it is visible and a greater part of it is invisible."

SHRI JOSHI did not like to reveal. I further quote:

> "It is a secret or semi-secret organisation, certainly not a cultural organisation".

I will repeat 'certainly not a cultural organisation'.

> "I am sure there are other less known groups spreading the same kind of poison. It is like stocking of dry powder in the community, and when a match is struck, there is an explosion."

More recently, in 1968 (December 28 and 29), addressing the Second National Convention against communalism, Shri Jayaprakash Narayan made this observation regarding the R.S.S.

> "When, following Gandhiji's murder the Sangh was under a shadow, there were many protestations made about this being entirely a cultural organisation but, apparently, emboldoned by the timidity of the secular forces, it has thrown its veil away and has emerged as the real power behind, and controller of the Bhartiya Jansangh."

I repeat 'and has emerged as the real power behind, and controller of, the Bhartiya Jansangh'.

> "Secular protestations to the Jansangh will never be taken seriously unless it cuts the bonds that tie it so firmly to the R.S.S. machine. Nor can the R.S.S. be treated as a cultural organisation as long as it remains the mentor and effective manipulator of a political party".

No comment is required on this.

श्री जगन्नाथ राव जोशी : (शाजापुर) : आप हमा । पूरा भाषण पढ़ते तो पता चलता मैंने यह कहा था कि जय प्रकाश जो हमारे खिलाफ थे , मोरारजी भाई भी हमारे खिलाफ थे किन्तु जब नजदीक आये तब उनको पता चला क्या चीज है ।

श्री जगजीवन राम : जोशीजी, किसी मौके पर पूरे भाषण को आप सदन के समाने पेश कर द जिये तो उसमें किसी को एतराज नहीं होगा ।

Sir, as I have said, I have not much to say. The country has appreciated the swift action taken by the Prime Minister, and there is no doubt that it has been welcomed in the country and outside. The situation that was developing has been contained. The danger that was likely to emerge has been curbed. This has been the effect of the proclamation.

[Shri Jagjivan Ram]

Apprehensions have been expressed that there may be misuse of these powers by the Government. One point has been made that this has been used against political leaders. There is no denying the fact and it has to be used where it is found that political workers and leaders were not functioning as political leaders and workers in a democracy but functioning in a manner which was undemocratic and un-constitutional. And then it became necessary to contain them also and they have been contained. Some apprehensions were expressed about their health. I may assure the House that proper care is being taken of their health. Regular medical checks are being made and especially about Jaya Prakash Narayan and Morarji Bhai I have to inform the House that they are in normal health.

It has been stated that misuse may be made by Government officials and other authorities of these powers. State Governments have been informed that these powers should be used very cautiously so that misuse of these powers could be avoided. As I have said from the reports that we are setting from all over the country—and as hon. Members might also be getting—this has created a sense of confidence in the people. The authority of the Government which was sought to be weakened has been stabilised. As I have said—I will repeat again—Government has to function with a prestige that is necessary for it and any effort to undermine that prestige of the Government has to be met. Now prestige of the Government has been restored and in the country-side and everywhere people are feeling that they are safe.

SHRI K. S. CHAVDA: They feel panicky.

SHRI JAGJIVAN RAM: Well some motivated persons have become panicky and they are bound to be. Therefore, Sir, as I have said I have not much to say. It has been welcomed in the House.

SHRI DINEN BHATTACHARYYA (Serampore): By your men.

SHRI JAGJIVAN RAM: Not only by my men but by friends sitting on the Opposition as well. If you had cared to listen, as I have said, several Opposition parties have supported it and even those who have given their qualified support have welcomed the economic programmes announced by the Prime Minister. They have extended their support for the implementation of the economic programme. They have advanced this condition that if the economic programme is implemented, they will welcome this Proclamation as a whole. There is no doubt that for the implementation of this economic programme, the cooperation of all the political parties is required. If they will extend it, we will welcome that. But, we will go ahead with the implementation of this programme ourselves.

The restoration of a situation in which this Proclamation will become infructuous, as the Prime Minister has said, will depend on the Opposition parties. Let us hope that they will conduct themselves in such a way and also advise the people whom they claim to be their followers to conduct in such a way that the Proclamation, though it may remain on the statute, will become infructuous.

With these words, I commend the Resolution to the House.

MR. SPEAKER: The question is:

"That this House approves the Proclamation of Emergency made by the President on the 25th June, 1975, under clause (1) of Article 352 of the Constitution as also the Order of the President dated 29th June 1975, made in exercise of powers conferred by sub-clause (b) of clause (4) of Article 352 of the Constitution, as applied to the State of Jammu and Kashmir, applying the said Proclamation to the State of Jammu and Kashmir."

The Lok Sabha divided:

Division No. 4 11.50 hrs.

AYES

Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Anand Singh, Shri
Ankineedu, Shri Maganti
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerji, Shrimati Mukul
Barman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyyia, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D. B.
Chandra Shekhar Singh, Shri
Chandrakar, Shri Chandulal
Chandrappan, Shri C. K.
Chandrashekharappa Veerabasappa, Shri T. V.
Chandrika Prasad, Shri
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhutten Lal, Shri
Chikkalingaiah, Shri K.
Choudhury, Shri Moinul Haque
Daga, Shri M. C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Desai, Shri D. D.
Deshmukh, Shri K. G.
Deshmukh, Shri Shivaji Rao S.
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K. R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Garcha, Shri Devinder Singh
Gautam, Shri C. D.

Gavit, Shri T. H.
Ghosh, Shri P. K.
Gill, Shri Mohinder Singh
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Godfrey, Shrimati M.
Gogoi, Shri Tarun
Gokhale, Shri H. R.
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra
Gotkhinde, Shri Annasaheb
Gowda, Shri Pampan
Gupta, Shri Indrajit
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Singh, Shri
Hashim, Shri M. M.
Ishaque, Shri A. K. M.
Ismail Hossain Khan, Shri
Jadeja, Shri D. P.
Jagjivan Ram, Shri
Jamilurrahman, Shri Md.
Janardhanan, Shri C.
Jeyalakshmi, Shrimati V.
Jha, Shri Bhogendra
Jha, Shri Chiranjib
Jhunjhunwala, Shri Bishwanath
Jitendra Prasad, Shri
Joshi, Shri Popatlal M.
Joshi, Shrimati Subhadra
Kadam, Shri Dattajirao
Kadam, Shri J G.
Kadannappalli, Shri Ramachandran
Kader, Shri S. A.
Kahandole, Shri Z. M.
Kailas, Dr.
Kakodkar, Shri Purushottam
Kakoti, Shri Robin
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri N. S.
Kamble, Shri T. D.
Kamla Kumari, Kumari
Karan Singh, Dr.
Kasture, Shri A. S.
Kaul, Shrimati Sheila
Kavde, Shri B. R.
Kedar Nath Singh, Shri
Khadilkar, Shri R. K.
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kotrashetti, Shri A. K.
Koya, Shri C. H. Mohamed
Krishnan, Shrimati Parvathi
Krishnappa, Shri M. V.
Kulkarni, Shri Raja
Kureel, Shri B. N.
Kushok Bakula, Shri
Lakkappa, Shri K.
Lakshminarayanan, Shri M. R.
Lambodar Baliyar, Shri
Laskar, Shri Nihar
Lutfal Haque, Shri
Mahajan, Shri Vikram
Mahajan, Shri Y. S.
Maharaj Singh, Shri
Mahishi, Dr. Sarojini
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Malaviya, Shri K. D.
Malhotra, Shri Inder J.
Mallanna, Shri K.
Mallikarjun, Shri
Mandal, Shri Jagdish Narain
Mandal, Shri Yamuna Prasad
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Manoharan, Shri K.
Maurya, Shri B. P.
Mehta, Dr. Jivraj
Mehta, Dr. Mahipatray
Melkote, Dr. G. S.
Mirdha, Shri Nathu Ram
Mishra, Shri G. S.

Modi, Shri Shrikishan
Mohammad Tahir, Shri
Mohammad Yusuf, Shri
Mohan Swarup, Shri
Muhammed Khuda Bukhsh, Shri
Munsi, Shri Priya Ranjan Das
Murmu, Shri Yogesh Chandra
Murthy, Shri B. S.
Muruganantham, Shri S. A.
Nahata, Shri Amrit
Naik, Shri B. V.
Nanda, Shri G. L.
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon, Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Pajanor, Shri Aravinda Bala
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R. S.
Pandey, Shri Sarjoo
Pandey, Shri Sudhakar
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C.
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Parikh, Shri Rasiklal
Parthasarathy, Shri P.
Paswan, Shri Ram Bhagat
Patel, Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R.
Patil, Shri Anantrao
Patil, Shri C. A.
Patil, Shri E. V. Vikhe
Patil, Shri Krishnarao
Patil, Shri S. B.
Patil, Shri T. A.
Patnaik, Shri Banamali
Patnaik, Shri J. B.
Peje, Shri S. L.
Pradhan, Shri Dhan Shah
Pradhani, Shri K.
Purty, Shri M. S.
Qureshi, Shri Mohd. Shafi
Raghu Ramaiah, Shri K.
Rai, Shrimati Sahodrabai
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram Dayal, Shri
Ram Prakash, Shri
Ram Sewak, Ch.
Ram Singh Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramji Ram, Shri
Ramshekhar Prasad Singh, Shri
Ranabahadur Singh, Shri
Rao, Shrimati B Radhabai A.
Rao, Shri J. Rameshwar
Rao, Shri Jagannath
Rao, Shri K Narayana
Rao, Shri M. S. Sanjeevi
Rao, Shri M. Satyanarayan
Rao, Shri Nageswara
Rao, Shri P. Ankineedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R Varadaraja
Rathia, Shri Umed Singh
Raut, Shri Bhola
Ravi, Shri Vayalar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K. Ramakrishna
Reddy, Shri M. Ram Gopal
Reddy, Shri P. Bayapa
Reddy, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram

Richhariya, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Sadhu Ram, Shri
Saini, Shri Mulki Raj
Sait, Shri Ebrahim Sulaiman
Samanta, Shri S. C.
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sangliana, Shri
Sankata Prasad, Dr.
Sant Bux Singh, Shri
Sathe, Shri Vasant
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Savitri Shyam, Shrimati
Sayeed, Shri P. M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shafquat Jung, Shri
Shahnawaz Khan, Shri
Shailani, Shri Chandra
Shankar Dayal Singh, Shri
Shankar Dev, Shri
Shankaranand, Shri B.
Sharma, Dr. H. P.
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shanker Dayal
Shashi Bhushan, Shri
Shastri, Shri Biswanarayan
Shastri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivnath Singh, Shri
Shukla, Shri B. R.
Shukla, Shri Vidya Charan
Siddayya, Shri S. M.
Siddheshwar Prasad, Prof.
Singh Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri R. K.
Sohan Lal, Shri T.
Sokhi, Sardar Swaran Singh
Stephen, Shri C. M.
Subramaniam, Shri C.
Sudarsanam, Shri M.
Sunder Lal, Shri
Suryanarayana, Shri K.
Swaminathan, Shri R. V.
Swamy, Shri Sidrameshwar
Swaran Singh, Shri
Tarodekar, Shri V. B.
Tayyab Hussain, Shri
Tewari, Shri Shankar
Thakre, Shri S. B.
Thakur, Shri Krishnarao
Tiwari, Shri Chandra Bhal Mani
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tombi Singh, Shri N.
Tulsiram, Shri V.
Uikey, Shri M. G.
Vekaria, Shri
Venkatswamy, Shri G.
Verma, Shri Balgovind
Vidyalankar, Shri Amarnath
Vijay Pal Singh, Shri
Vikal, Shri Ram Chandra
Virbhadra Singh, Shri
Viswanathan, Shri G.
Yadav, Shri Chandrajit
Yadav, Shri D. P.
Yadav, Shri Karan Singh
Yadav, Shri R. P.
Zulfiquar Ali Khan, Shri

NOES

Agarwal, Shri Virendra
Bade, Shri R. V.
Banera, Shri Hamendra Singh
Berwa, Shri Onkar Lal
Bhattacharyya, Shri Dinen

Bhattacharyya, Shri Jagadish
Bhattacharyya, Shri S. P.
Chatterjee, Shri Somnath
Chaudhary, Shri Ishwar
Chaudhuri, Shri Tridib
Chavda, Shri K. S.
Chowhan, Shri Bharat Singh
Das, Shri R. P.
Deb, Shri Dasaratha
Deiveekan, Shri
Deo, Shri P. K.
Dharia, Shri Mohan
Durairasu, Shri A.
George, Shri Varkey
Gopalan, Shri A. K.
Goswami, Shrimati Bibha Ghosh
Haldar, Shri Madhuryya
Halder, Shri Krishna Chandra
Hazra, Shri Manoranjan
Horo, Shri N. E.
Joarder, Shri Dinesh
Joshi, Shri Jagannathrao
Kalingarayar, Shri Mohanraj
Kiruttinan, Shri Tha
Krishnan, Shri M. K.
Lakshmanan, Shri T. S.
Lakshmikanthamma, Shrimati T.
Mavalankar, Shri P. G.
Mayavan, Shri V.
Mehta, Shri P. M.
Modak, Shri Bijoy
Mohammad Ismail, Shri
Mukherjee, Shri Samar
Mukherjee, Shri Saroj
Nayak, Shri Baksi
Parmar, Shri Bhaljibhai
Patel, Shri H. M.
Patel, Kumari Maniben
Patel, Shri Nanubhai N.
Pillai, Shri R. Balakrishna
Ram Deo Singh, Shri
Ramkanwar, Shri
Reddy, Shri B. N.
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Saha, Shri Gadadhar
Saksena, Prof. S. L.
Sen, Shri Robin
Sequeira, Shri Erasmo de
Shastri, Shri Shiv Kumar
Singh, Shri D. N.
Subravelu, Shri
Ulaganambi, Shri R. P.
Vekaria, Shri

MR. SPEAKER: The result* of the division is:

Ayes: 336, Noes: 59

The motion was adopted.

SHRI TRIDIB CHAUDHURI (Berharmpur): Mr. Speaker, on behalf of the majority of the Opposition parties, I want to make a statement with your permission.

It is after a great deal of deliberation that we in the Opposition parties, excluding of course the CPI and also some Independent members decided to attend and participate in the present session of Parliament. Our reluctance arose from the fact (1) of the press censorship but even more so from (2) the resolution standing in the name of Shri Raghu Ramaiah, the Minister of Parliamentary Affairs, asking the House to suspend all rules relating to questions, Calling Attention and any other business initiated by Private members. We could not but take note of the fact that apart from Government's business, Parliament has to perform other duties also, such as debate on Government policy and exercise of effective supervision over executive action in various ways. Only by putting a question or giving a Calling Attention notice or initiating a

*The following Members also recorded their votes:—

AYES: Sarvashri Genda Singh, Jharkhande Rai and M. Kathamuthu.

NOES: Sarvashri Surendra Mohanty and S. A. Shamim.

[Shri Tridib Chaudhuri]

debate can a member focus the attention of the House and through it of the country, to matters of public importance. That is why constitutional authorities have held that the right to put questions and the question hour are among the most vital rights of an ordinary member. If all these were to be abandoned unceremoniously, we would really be acquiescing in something that cuts at the very root of the role of Parliament in its time-honoured functions. Nevertheless it was felt that perhaps the proceedings in this session of Parliament will be conducted in a normal manner and that speeches made on the floor of the House will be allowed to be reported freely and faithfully in spite of press censorship.

To our dismay, we find that the reporting on the AIR of yesterday's proceedings in the House is such that it can only mislead. It mentioned only the names of the participants whereas Shri Jagjivan Ram's speech was reported fairly fully and highlighted.

SHRI S. A. SHAMIM (Srinagar): As a paid advertisement.

SHRI TRIDIB CHAUDHURI: This morning's newspapers' reporting of the proceedings is also on the same lines. We cannot but protest most emphatically against such unfair reporting of the proceedings which tells the country the Government's point of view in regard to the emergency without indicating what the Opposition has to say on the floor of the House on this very vital subject.

It is clear that this has been done in accordance with the instructions issued to the Press and the AIR by the Chief Censor on the 20th of July under the heading "Guidance for covering of Parliamentary proceedings." It is not indicated in these instructions that the speeches of members of Parliament participating in the debate shall not be published in any manner or form though their names and party affiliations may be mentioned, were issued with or without the approval of the Speaker.

We have, therefore, been compelled to ask ourselves the question whether continued participation in the further business before Parliament on these terms would serve any useful purpose. The decision to amend the Constitution to make the proclamation of emergency non-justiciable makes the consideration of the question more urgent and immediate. It is evident that Government, having already denied the entire people of the country the basic fundamental rights, is now dettrmined to ride roughod over the rights of the Members of Parliament.

Taking all relevant facts into consideration and bearing in mind in particular the fact that leading members of Parliament have been incarcerated, we are satisfied now that no useful purpose will be served by our taking part in the further proceedings of this session of Parliament, for it is clearly in no position to discharge the function of a free and democratic Parliament.

MR. SPEAKER: So far as our House debates are concerned, they are fully reported in our own records.

11.55 hrs.

Shri Tridib Chaudhuri and some other hon. members then left the House.

11.55 hrs.

CONSTITUTION (THIRTY-NINTH AMENDMENT) BILL

MR. SPEAKER: We shall now take up item No. 17, motion on the Constitution (Amendment) Bill to be moved by the hon. Law Minister. You know the procedures for that. It has to be passed by two-thirds majority and also by more than half of the total Members present and voting. Should we fix sometime for voting on it?

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Three O'clock.

MR. SPEAKER: Voting will begin at 3 O'clock. You all know that not only the main motion but on every clause also the voting has to be two-thirds. Of course, you are quite wise by this time in many ways.

12.00 hrs.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Sir, I beg to move.

> "That the Bill further to amend the Constitution of India be taken into consideration."

The hon. members are already aware of the circumstances leading to the proclamation of emergency by the President on 25th June 1975, in exercise of the powers conferred by clause (1) of Article 352 of the Constitution. A Government which does not meet such an emergent situation by taking emergent action would be held guilty by posterity for not defending the constitutional order. The Prime Minister on an earlier occasion and my senior colleague, Shri Jagjivan Ram this morning have already adverted to these circumstances necessitating the taking of emergency action for the very survival of democracy and the Constitution itself.

The provisions of the Constitution relating to the powers of the President to issue Proclamations of Emergency are quite clear. Similarly, the power of the President to promulgate Ordinances during recess of Parliament and the power of the Governor and the Administrator of a Union Territory to promulgate such Ordinances during recess of the Legislature are also clearly laid down in the Constitution. Unfortunately, certain doubts and controversies have been raised and the Government propose to set at rest those doubts and controversies by the proposed Constitutional Amendment before the House.

I may first refer to the amendments proposed to the provisions of articles 123, 213, 239B, 352, 356 and 360 so as to provide that the "satisfaction" mentioned in these articles is subjective and outside the scope of judicial review and hence cannot be canvassed or questioned before a court of law. As a matter of fact, the amendment proposed is merely of a clarificatory nature. On a plain reading of the provisions of these articles, there can be no doubt that the satisfaction of the President for the purpose of promulgating an Ordinance under article 123 and for the purpose of issuing Proclamations of Emergency under articles 352, 356 and 360 is purely subjective. So is the case with the power of the Governor and Administrator of a Union Territory to issue an Ordinance under articles 213 and 239B respectively.

There are decisions of the Privy Council, the Federal Court and the High Courts reiterating the principle that the Governor-General and the Governor-General alone should decide whether an emergency existed and whether an Ordinance should be promulgated. These decisions were on the interpretation of corresponding provisions of the Government of India Act.

The Privy Council in one of the judgments has observed:

> "A State of emergency is something that does not permit of any exact definition: It connotes a state of matters calling for drastic action, which is to be judged as such by some one. It is more than obvious that that some one must be the Governor-General, and he alone. Any other view would render utterly inept the whole provision. Emergency demands immediate action, and that action is prescribed to be taken by the Governor-General. It is he alone who can promulgate the Ordinance."

After more than a decade, the Privy Council reiterated the same principle in the leading case.

[Shri H. R. Gokhale]

Coming to the decisions of the Federal Court, I may refer to a leading case where a similar question had arisen. The Court observed that the issue was non-justiciable. The Court observed:

> "But the 'Emergency' was the apprehended danger to peace and public safety, likely to arise from the release of thousands of detenus in obedience to the decision of this Court. It is not within the province of the Court to examine the justification for the apprehension or assess the extent of the possible danger."

There are also decisions of the High Courts placing the same construction on section 72 of the Government of India Act.

As recently as 1974, a Division Bench of the Orissa High Court held that the emergency provisions under Articles 352, 356 and 360 in Chapter XVIII of the Constitution are not justiciable.

The Supreme Court had occasion recently to consider the scope of the Ordinance making power of the Governor under Article 213. The Court observed:

> "It is however well-settled that the necessity of immediate action and of promulgating an Ordinance is a matter purely for the subjective satisfaction of the Governor. He is the sole judge as to the existence of the circumstances necessitating the making of an Ordinance. His satisfaction is not a justiciable matter. It cannot be questioned on ground of error of judgment or otherwise in court."

In the case of Bhut Nath Mate *vs.* State of West Bengal arising under the Maintenance of Internal Security Act, 1971 (AIR 1974 S. G. p. 806), where it was contended that there was no real emergency and yet the Proclamation remained unretracted with consequential peril to fundamental rights, Justice Krishna Iyer in his judgment observed:

> "We have to reject summarily the last submission as falling outside the orbit of judicial control and wandering into the para-political sector. In our view, this is a political, not justiciable issue and the appeal should be to the polls and not to the courts'

Hon'ble Members will see therefore, that the legal position is clear and does not admit of any doubt. Nevertheless the issue is being agitated in courts again and again. To place the matter beyond a shadow of doubt, it is proposed to amend the Constitution.

The second important aspect covered by the Bill is, again, clarificatory in nature. The language of Article 352 clearly permits issue of a proclamation, or more than one, if the President is so satisfied, as envisaged in that Article. Despite the plain meaning employed in this Article, contentions have been raised in certain writ petitions that while the original proclamation of Emergency was in operation, no further proclamation could be made under Article 352. The Bill seeks to bring out the intention clearly and to remove any doubt in this regard by providing that the President may issue different proclamations on different grounds whether or not a proclamation is already in existence and in operation.

The third aspect of the Bill is to expressly bring out the intention underlying Article 359. Under Article 358, when a Proclamation is in operation, Article 19 is rendered inoperative and, at the same time, nothing in that Article shall restrict the power of the State to make any law or to take any executive action. The intention underlying Article 359 is also the same. Therefore, the Bill seeks to provide that while an order made under clause (1) of Article 359 regarding any of the rights conferred by Part III in operation, nothing in that Part conferring those rights shall restrict the power of the State to make any law or to take any executive action.

I have briefly outlined the salient features of the Bill. I now respectfully commend the Bill for the consideration of the House.

श्री सरजू पांडे (गाजीपुर) अध्यक्ष महोदय, हमारे संविधान मे यह 39 वा संशोधन आज सदन के सामने आया है । हमारे संविधान निर्माताओ के सामने यह बात आई थी और तब कहा गया था कि जो संविधान हम बना रहे है इसमे कम से कम मौकों पर संशोधन किया जायगा । लेकिन जब से इसको लागू किया गया है तब से कई बार बडी ही दुर्भाग्य पूर्ण स्थिति देश के सामने उपस्थित हुई है । कई बार अदालतो ने ऐसे ऐसे फैसले दिये है जिनको लेकर संविधान का संशोधन करना पडा है इसको सभी लोग अच्छी तरह से जानते है कि जो पूंजीवाद समाज होता है, जो वर्गीय समाज होता है और जिसमे एक तरफ तो पूंजीपति लोग होते है और दूसरी तरफ गरीब जनता होती है उस समाज मे गरीबो को न्याय का लाभ आम तौर पर मिलता नही है । सभी जानते है कि हमारे देश के न्यायालय गरीब लोगो के लिये बन्द है क्योकि जिनके पास पैसा नही है वे अदालतो मे जा नही सकते है जिनके पास पैरवी करने के लिये बड बडे वकीलो को बडी बडी फीसे देने के लिये पैसा नही है वे अदालतो मे जा नही सकते है और इसका नतीजा यह होता है कि वे न्याय से वंचित हो जाते है । जमीदारो का विनाश किया गया, जमीदारी प्रथा को समाप्त किया गया और जब इसके बारे मे कानून बनाया गया तो उनको चुनौती दी गई और अदालतो ने जमीदारो के पक्ष मे फैसला दिया और उनको लेकर संविधान मे संशोधन करना पडा था । पिछली लोक सभा मे बैंको का राष्ट्रीयकरण किया गया था जिसको अदालतो मे चुनौती दी गई और जिन को हम न्यायमूर्ति कहते है, जिन को हम कहते है कि निष्पक्ष है उन्होने बैंक मालिकों के पक्ष मे फैसला दिया । राजाओं और महाराजाओं की थैलिया जब छीनी गई तब भी उन्ही के पक्ष मे फैसला दिया गया । कहने का मतलब यह है कि जो लोग यह समझते है कि अदालतो मे न्यायमूर्ति हैं वे निष्पक्षता से काम करते है, अदालतें निष्पक्ष निर्णय देती है वह गलत है ।

अध्यक्ष महोदय, हम लोग भी जेलो मे रहे है, हमारे साथी भी जेलों मे रहे है और हमे मालूम है कि किस तरह का हमारे साथ व्यवहार किया जाता था और किस तरह का आज जो जेलों मे है, उनके साथ किया जा रहा है । किस तरह से हमको रखा जाता था और किस तरह से आज इनको रखा जा रहा है । एयर कंडिशड कमरों में उनको रखा जाता है और हर प्रकार की सुविधाये उनको उपलब्ध की गई है । हम लोग जब इसी राज मे पकडे गये थे तो जिस तरह से बकरी को रस्सी से बाध कर पकड कर ले जाते है और उसको रखते है उसी तरह से हम को रखा गया था । पाच दस साल तक हम लोग भी जेल मे रहे है । आज इनका तो मैडिकल चेक अप भी होता है, उसके लिये भी इनको ले जाते है लेकिन हम अगर डाक्टर के पास जाते है तो हम लोगो की बात भी नही सुनी जाती थी । ये तमाम लोग जो देश मे ऊधम-मचाना चाहते थे, जो देश की तमाम परम्पराओं को समाप्त करना चाहते थे, जो सक्युलरिज्म मे विश्वास नही करते थे, जो समाजवाद मे यकीन नही करते थे, जो देश मे गुंडागर्दी मचाना चाहते थे आज वे जेल खानों मे है । बड़े बडे स्मगलर जैसे कुली मस्तान और बखिया जब उनको पकडा गया तो अदालतों ने उनको रिहा कर दिया । इस दुखद स्थिति मे संविधान मे संशोधन करने वाला बिल सरकार को यहा लाना पडा है । आम तौर पर हम लोग यह नही चाहते है कि अदालतों के अधिकारों को कम किये जाये । लेकिन एक अजीब स्थिति पैदा हो गई थी जिस का मुकाबला करने के लिये यह जरूरी हो गया था कि संविधान मे संशोधन किया जाय । जब भी मौका आया अदालतों ने

[श्री सरजू पांडे]

उल्टा फैसला दिया। कहीं इस केस में भी ऐसा ही न हो इस वास्ते इस बिल को लाना पड़ा है।

हम लोगों पर भी मुकदमें चले हैं। हमारे विरोधी भाई भी जानते हैं कि किस तरह से कानून को तोड़ा मरोड़ा जाता है। आप को मैं खुद भी जाती तजुर्बा बताना चाहता हूं। एक बार मैं गाजीपुर की डिस्ट्रक्ट जेल में था। अब जेल मैनुअल में लिखा हुआ है कि कंट्री मेड शूज कैदियों को प्रोवाइड किये जायें। जेलखानों के जो जेलर थे वह आये और और कहने लगे कि कंट्री मेड वे शूज जो कि गांवों में बनते हैं छः महीने चल जायेंगे। हमने कहा कि बाटा के जूते भी हो सकते हैं लेकिन उन्होंने कहा कि नहीं यही इसका अर्थ है। यही तुम्हारे लिये है। अब आप देखिये किस तरह से अर्थ का अनर्थ किया जाता है। मैं कहूंगा कि अर्थ का अनर्थ नहीं किया जाना चाहिये। आप समझ लीजिये कि जब तक पूंजीवादी अर्थव्यवस्था होगी न्याय स्वतंत्र नहीं हो सकता है। फिर कौन लोग हैं जो न्याय प्राप्ति के लिये अदालतों के दरवाजे खटखटा सकते हैं, हाई कोर्ट और सुप्रीम कोर्ट में जा सकते हैं? कितने गरीब लोग हैं जो हाई कोर्ट में जा सकते हैं? मेरे ख्याल में हिन्दुस्तान के दो तीन परसेंट लोग भी नहीं जा सकते हैं। अदालतें उन्हीं के लिये हैं जिनके पास पैसा है, जो ज्यादा से ज्यादा भ्रष्टाचार करते हैं। यह जो संशोधन यहां पेश हुआ है यह किन्हीं विशेष परिस्थितियों को लेकर जो कि पैदा हो गई थी पेश किया गया है। इसलिये हम इसका समर्थन कर रहे हैं। यह हम जरूर चाहते हैं कि यह जो असाधारण व्यवस्था की जा रही है इसको जल्दी से जल्दी समाप्त करने की कोशिश की जाय। ऐसी व्यवस्था हमेशा बनाये रखना ठीक नहीं होगा। इसमें लिखा हुआ है कि अगर राष्ट्रपति जी संतुष्ट हो जायें तो देश में आपात स्थिति को समाप्त कर सकते हैं। इसमें आपने यह भी लिखा है कि इसको किसी भी अदालत में किसी भी ग्राउंड पर चैलेंज नहीं किया जा सकता है। एक आदमी के सैटिसफैक्शन की बात नहीं है। एक असाधारण स्थिति पैदा हो गई थी कि आपको आपात स्थिति की घोषणा करनी पड़ी और अब संविधान को बदलना पड़ रहा है। लेकिन यह अवस्था अगर बराबर कायम रहेगी, यही हालत कायम रही तो गरीब कहां जायगा? आज देश में ले आफ हो रहा है, मजदूरों की छंटनी हो रही है, लोगों को, मजदूरों को मिलों में से निकाला जा रहा है? उनकी सुनवाई कैसे होगी। जहां तक एक आदमी के सैटिसफैक्शन की बात है मुझे एक किस्सा याद है कि हमारे जिले के डिस्ट्रिक्ट मजिस्ट्रेट सैटिस्फाई हो गये और अंग्रेजों के जमाने में उन्होंने एक आदमी को डिटेन कर लिया और इस आधार पर उसका डिटेंशन हुआ कि उसने अपनी तकरीर में बम मह देव कहा था जबकि सी आई डी वालों ने इसको यह लिख दिया था कि बम मार दो। इस आधार पर उसका जेल में बन्द कर दिया गया था। ऐसी स्थिति अब पैदा नहीं होनी चाहिये। मुझे याद है एक बार कम्युनिस्ट पार्टी के दफ्तर की तलाशी ली गई। उस दफ्तर में मोलोतोव की तस्वीर लटकी हुई थी। कहने लगे कि मोलोतोव भी हिन्दुस्तान का कोई बड़ा भारी कम्युनिस्ट नेता होगा और उसकी गिरफ्तारी का वारेंट निकाल दिया गया। उनको यह मालूम नहीं था कि वह हिन्दुस्तान का नहीं रूस का नेता है। अगर आपने अदालतों के द्वार बन्द कर दिये है लोगो के लिये तो कम से कम इस बात की जरूर व्यवस्था कीजिये कि किसी के साथ ज्यादती न होने पाये, लोगों को ऐसे अवसर न दिये जायें, पूंजीपतियों को ऐसे अवसर न दिये जायें कि वे गरीबों का खून चूस सकें, उनका हनन कर सकें? देश की जो परिस्थिति है उसको आप कहां तक

सुधार पायगें यह देखने वाल बात है। आपने जो प्रोग्राम बनाया है उसको आप लागू कहां तक करते हैं यह देखने वाली बात है। एमरजेंसी लागू होने के बाद मुझे मालूम नहीं आज कहां तक कम हुये है लेकिन एक बात जरूर मैं कह सकता हूं कि ला एंड आर्डर की स्थिति अच्छी हुई है, उसमें सुधार हुआ है और इसमें कोई शक नही है कि सुधार हुआ है आपने जो आपात स्थिति की घोषणा की है इससे गरीबों का भी नुकसान हो सकता है। संविधान में जो आप संशोधन कर रहे है उसका तो हम समर्थन करते है लेकिन यह भी हम चाहते है कि देश मे गरीबों की रक्षा की व्यवस्था की जाय। मंत्री महोदय को अपने उत्तर मे यह आश्वासन अवश्य देना चाहिये कि जो अधिकार लिये गये है इनका उपयोग उनके खिलाफ नही किया जायगा जो जन हित में लडते है।

बड़ा ताज्जुब की बात है कि पूरे देश मे सभा आदि करने की इजाजत नही है। हम बोल नही सकते है। अब आप बताइये कि हम जनता मे जा कर क्या कहे। हमारी समझ मे तो यह बात आती नही है। बोलने का ही हम पेशा करते है और वही आपने बन्द कर दिया है। देश में क्या हो रहा है इसको देश की जनता जानना चाहती है। एमरजेंसी क्यो लागू हुई है, इसको वह जानना चाहती है। गांवो की करोडों करोड जनता के अन्दर तरह तरह के भ्रम फैले हुये है। कौन उनको जा कर समझायेगा समझ मे नही आता है। आपके अफसर कहते हैं कि आपको बोलने की इजाजत दे दी जाय तो फिर दूसरी पार्टियो को क्यों न दी जाय। हम कहते है कि और पार्टियों के लोगों को तुमने पकड कर बन्द किया है तो हमें क्यों बन्द नहीं करते तो कहते है आपका अलग मामला है, इसको सरकार जानती है। मैं कहूंगा कि कम से कम उन लोगों को जो गरीबों के हित मे काम करते है, जो मार्क्सवाद में विश्वास करते है, समाजवादी अर्थ व्यवस्था में यकीन करते हैं उनको तो प्रचार करने का इन सिद्धान्तों का मौका दिया जाय। आपात स्थिति से लाभ उठा कर प्रताडित और गरीब जनता की स्थिति सुधारने के लिये कदम उठाये जाने चाहियें। आप नागरिको के सभी अधिकार ले रहे हैं। वे अदालतों मे जा नही सकते हैं, न्यायमूर्ति जो हैं वे आसमान से नहीं टपके वे भी गरीबों के बहुत पक्ष में नहीं है, जो जो भी हिन्दुस्तान में प्रोग्रेसिव कदम उठाये गये है उनका इन्होंने हमेशा विरोध किया है। आप जो संविधान में संशोधन कर रहे हैं यह तो आप ठीक कर रहे है। लेकिन में इतना आप से जरूर आश्वासन चाहता हूं कि इसका मिसयूज नही होना चाहिये। एमरजेंसी का ज्यादा से ज्यादा लाभ उठाकर हमारे कार्यकर्ताओं को बन्द कर दिया जाता है, हमारे कई लोग जेलखाने मे बन्द हो जाते हैं। पूछने पर कहा जाता है कि आपको तो थोड़े ही बन्द किया गया है, कांग्रेसी भी बन्द हो गये है। उनका नाम हो गया है जो बन्द हो गये है।

इसलिये मैं चाहता हूं कि इस एमरजेंसी का लाभ हिन्दुस्तान के करोड़पतियों और अरबपतियों को नहीं होना चाहिये, जिन्होंने देश का बहत सारा खून पिया है। इन्होंने समाज को भ्रष्ट किया है, इन्होंने अदालतों को भ्रष्ट किया है, लजिस्लेचर को भ्रष्ट किया है, इन्होंने मंत्रियों को बरबाद किया है। तो कम से कम इस एमरजेंसी का फायदा उठाकर इनको बन्द करना चाहिये।

इसलिये यह जो संविधान का संशोधन लाये है, इसका मैं समर्थन करता हूं।

SHRI H. K. L. BHAGAT (East Delhi): I believe this Constitution Amendment Bill does not require much debate because the purpose of this Bill is very evident and it is, as the Law Minister very rightly said, of a clarificatory nature. Obviously emergency is declared, whether it is on account of external aggression or because of the internal situation, in a difficult situation, in a grave situation

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where not argument but action is required, and that is why in all the Constitutions of the world a provision is made that emergency is declared when the head of the State is satisfied and this provision was thus incorporated in our Constitution.

Yesterday it was very curious for me to hear Shri P. G. Mavalankar saying that this cuts at the jurisdiction of the courts. Actually, as the Law Minister very rightly said, in a number of judicial pronouncements various courts have said that this is something which is not within their province or jurisdiction and therefore a clarification through this Constitution Amendment Bill does not take away the legitimate jurisdiction of the courts as contended by him. On the other hand, it would reduce unnecessary burden and pressure on the courts. As a practising lawyer I can say that when we go in for petitions to the High Court or the Supreme Court, we take so many grounds and one of the grounds taken is this that the proclamation or the emergency declared is challengeable or something like that. It is just keepings an argument. The courts sometimes have to listen to it and go into these questions and that means unnecessary burden on the courts. Therefore, it was necessary particularly at this time that this matter should be clarified.

My friend was reminding us of the founding fathers of the Constitution. I am not living in that age of the founding fathers of the Constitution. I am living in the age of today, in a new India which has new problems and new aspirations, in an India which has advanced and whose problems are also advanced for beyond my age. This is not an India of my age, but probably of my children, and we have to look at the problems of today's India, and therefore, this concept is absolutely out-moded. I honestly believe that quite a number of things which today are within the scope and jurisdiction of our judicial system do not serve any ustful purpose. It is a question of basic approach. It is a very fundamental question. The basic approach is whether our emphasis is going to be on individual liberty as we thought of it when this Constitution was framed or our emphasis or concern is going to be the collective good of the people. A smuggler can very well say that he should not be detained without trial because it affects his individual liberty. Teherefore, I honestly think that it is very necessary at this stage that we should go into this question of our whole judicial system and see what should remain within the province of judicial jurisdiction and what should not remain.

I feel that a lot of things are entrusted to the court which could be settled more easily outside. Perhaps in certain case, misuse of the executive is there; perhaps it may not be completely ruled out. If you look at it collectively, the justice that we get in certain matters—I am not elaborating those matters, there are various matters of administrative nature which are subject to the jurisdiction of the court takes a lot of time and energy, which to my mind, is unnecessary.

My friend was very rightly pointing out that justice has become justice more for the rich people and less for the poor people, because the poor people cannot afford to file a writ petition. It is very difficult for the poor to file a writ petition which normally the rich can do easily, because he can afford to pay heavy fee for it. And then the justice is often delayed Therefore, if you see the courts from all levels, whether it is lower level or middle level or top level, you will find that the courts are burdened with a number of cases. If you go into the issues of individuals—may be of importance in as much as they affect their right—you will find, if I may say

so, that in most of the cases the issues are of not much substantial consequence. Therefore, I would demand that the Government should go into this question as to how we can make our judicial system more effective; and this judicial system can take up those matters which are absolutely necessary where justice can be cheaper and justice is not delayed. This is a matter which we should look into. This argument that we shall cut the jurisdiction of the court and by doing so, we are undoing democracy and we are doing anything wrong, to my mind is very wrong and an untenable argument. In a number of cases, I am surprised, the courts themselves had said that these are draconian laws. These need to be changed. In a number of cases, I know that the courts have said that such matters should not come to us; why do such matters come to us. They said that these matters should be dealt with by the administration or by the executives themselves or some other way should be found out. The courts have said and yet I believe that this is a matter which needs to be looked into.

Today, we are not living in a society where we began with our beginning of our Constitution. Today, we do not really need so much of legal debate or intellectual satisfaction or the elites standing in a court or in a club arguing things and deriving satisfaction. What we really need today is action which is good for the people and the collective welfare of the society.

Mr. Indrajit Gupta has said that we have an opportunity now by this proclamation of emergency to achieve results in furtherance of our economic programmes and policies. Now, the people have once again developed hopes and a certain amount of energy has been unleashed. To my mind, it looks a real miracle. As long as this proclamation of emergency is there, we find in this country a new thinking, a new spirit.

Sir, I am just telling you for information. The other day, I went to the District Court in the Criminal Wing. I had not been there for a long time. I thought I should go there, meet my friends and see their reaction. I expected them to be critical, because, normally, lawyers are critical. I was surprised to learn—I am stating the facts, not fiction—that almost all of them present, to the last man, welcomed this emergency and praised it very much. They told me, "You are in Parliament you tell your leaders one thing, that is, think of the poor lawyers." I said, "What"? They said, "Crimes were not there and they must look up for some alternative employment." I am stating the facts. The number of crimes has gone down suddenly and it has to be kept down. Suddenly, a sense of realisation has dawned on them.

Conditions in the buses were so bad. I got my daughter admitted in some college and my wife asked me how she could travel in the buses. I told her let her go in the buses, and the girl reported that the conduct of students in the buses was very good; their behaviour is better now.

Therefore, this emergency has unleashed a new atmosphere, a new sense of responsibility which must be harnessed for the good of the nation, harnessed with a full resolute determination. We have worked in a manner with those old outmoded conceptions. See, freedom is on thing, liberty is one thing, licence is another thing. When you go on appeasing lawlessness of all kinds in the name of liberty, you are destroying liberty itself.

By thinking that we are tolerating things with a view to protect freedom, we put our freedom in peril. The attacks on borders are dangerous. But the attacks on fundamentals are no less dangerous. The attack was made on our fundamentals. The attack has been repulsed by the people. The people of India are very sensible people. They understand what they should do. May be, they are not much educated, much literate But they have a very sound practical commonsense. In all situations, they have reacted very wisely and in a practical way. They have reacted so well to the situation.

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I think, during this period, it is necessary that in this Emergency we should be able to tackle the social evils, the economic evils and other things. We should be able to make it felt by all such people who weaken our economy, who destroy our economy who obstruct our growth and who perpetrate or commit injustices against weaker sections of the society. We should be able to create a new social order.

It is not curbing the jurisdiction of courts. Even if it were to curb the jurisdiction of courts, I do not see anything wrong in that in the interest of the nation and in the interest of the people. That is where we should not shirk at all. I would, therefore, say that this Constitution Amendment Bill which is really a Bill of a clarificatory nature is a welcome measure and it is bound to be welcomed by the people.

It is unfortunate that the Opposition today has chosen to walk out. It seems to me that they have not learnt the lesson from what has been happening. One good of this Emergency, I believe, is that they have at least chosen to walk out. It is a very legitimate constitutional method of walking out and not participating in the proceedings. Perhaps, I do not know, but for Emergency whether they would have done this or they would have said, "We will not let it proceed; we will have a *satyagrah* or a *dharna* in the House." Even in the matter of proceedings of Parliament, I believe, this Emergency has done some good. If we really had followed this in the name of parliamentary democracy, that would have helped it. The Opposition was denigrating it. I can say with a sense of satisfaction that with all the limitations this Parliament today is functioning with a greater sense of responsibility in the sense that the rules are being obeyed, the Chair is being obeyed and the Parliament is functioning in accordance with the rules framed by it. That is a matter of consequence, that is a matter of substance, which we have got to see.

Sir, yesterday, my hon. friend, Mr. H. M. Patel—I agree he is a very sensible and a sober man—said, "I am a sensible and a sober man" and yet a very sensible and a sober man carried into this House what he himself called a rumour. He himself said, there is a rumour that some Russian officers are here to guide and so on. He called it a rumour. What a sense of responsibility that a Member of Parliament should carry a rumour into this House and more so a rumour of that kind.

The censorship is there. He was bemoaning and criticising the censorship. If the censorship had not been there, this kind of a rumour brought by an hon. Member of this House would have been carried to the whole nation. What a damage it would have done to the country. What I am saying is that in this House we have seen that absolutely baseless allegations without even a *prima facie* evidence, without even a shred of evidence, have been made and such things have been carried into the press, carried to the nation, carried to the people in the name of liberty, in the name of the freedom of the press as if everyone thought that it was his right to say anything he liked. The freedom of liberty in this House is circumscribed by the freedom of other Members and it is circumscribed by the freedom of the whole nation.

With these words, so far as the Constitution Amendment Bill is concerned, I welcome it and, I think, it is self-evident that this is very necessary and I support it.

SHRI S. M. BANERJEE (Kanpur): My Hon'ble friend Shri Pande has already supported the Bill. Sir, in supporting this Bill I should say that we are aware that certain rights of the people will be taken away when the Bill becomes an Act. But whose right is being taken away? Let me

say that a few months back some top smugglers were arrested; but taking advantage of the various provisions of the Constitution, they went to the High Court and the Supreme Court and they were released. Do you think they were good people who were wrongly arrested? They were holding the country to ransom; they were doing all sorts of things which were nefarious; they were really doing something which may be called anti-social and anti-democratic. But still, they were released. So if this Bill has been moved now to restrict the movements of such people so that they will not be able to approach a court of law, what is wrong with it?

I fully appreciate the sentiments expressed by Shri Bhagat. After the 26th June when the emergency was proclaimed, any motive might be imputed by the Morcha, but it is true that people have become active, people have become more vigilant and, I can say, there are other benefits. The prices of essential commodities started coming down. Government has been trying since long for this and though the wholesale prices had gone down by two rupees or one rupee or fifty paise, it was not visible. Today the prices of some essential commodities like mustard oil, dalda etc. have come down beyond expectations. So, this emergency has done some good to the people and I am sure that if Government is honest enough and if they are sincere enough in continuing their efforts for bringing down the prices, then within six months the people will welcome this Bill and will say 'why did you not arrest them six months before?' Of course, four of my Hon'ble friends are not present in this House. I miss my friend Shri Shyamnandan Mishra; I miss the wit and humour of Shri Piloo Mody and I also miss the eloquence of my friends Shri Vajpayee and Jyotirmoy Bosu. But, Sir, let us face facts. Since a long time we did not discuss anything in this House except Mr. Tulmohan Ram, the late Shri L. N. Misra or Shri Jayaprakash Narayan's activities.

Sir, Shri Jayaprakash Narayan is one of the tallest persons in this country; he has sacrificed more than my age. But such a sacrifice to this country cannot become a fixed deposit which people can encash with interest every time.

I have heard with rapt attention the speech given by Shri Mohan Dharia yesterday. He was giving a call to the nation from Parliament He had neither the courage nor the conviction to issue a leaflet and distribute it in thousands when they were arrested In 1949 when we were chased by the police, we still had the red flag in our hands and we implemented our policies. We did not merely sit in the Central Hall and indulge in whispering campaigns or come to the Parliament House only to give a call to the nation. I am sorry that yesterday it was not only the Prime Minister but he brought under attack the Chairman of the Communist Party, Shri Dange, who is the father of the trade union movement in the country. Mr. Dharia had said, 'All this has been done; democracy is finished; you cannot talk here; you cannot protest here; let there be a stone with the inscription that this has been done by Shrimati Indira Gandhi. Shri D. K. Borooah and Shri S A Dange' He said that yesterday. I did not want to protest at that time I wanted him to be here today Let him realise that Mr. Dange is not a born defector like him; he was not in PSP or SP; he has been holding the Red Flag right from the beginning and we are his followers. I would like to tell Mr. Dharia that, when he wanted to become a Minister, he consulted Mr. Asoka Metha, his great intellectual guide, and both of them decided to put on *bandh gala* coat and become Ministers. What did he do then? He defected from PSP and joined the Congress. And when he thought that there were indications that the Grand

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Alliance might succeed in unseating Mrs. Indira Gandhi, he immediately changed his view and wanted to have another defection. But thank God, it was stopped. Whatever respect I had for him, I have even today. But I want to tell him that anti-communism ultimately leads to suicide, and that is going to happen to those who want to witch-hunt the Communist Party and its members.

We support the Government today and even this action of taking away certain rights of the individual only because of certain measures they have promised, and we shall go on supporting this Government and Shrimati Indira Gandhi with all our might so long as she takes progressive decisions, including certain basic decisions of nationalising certain industries. We shall support her and her Government. There is nothing wrong in that. What is the alternative today? Let me ask my CPM friends, Mr. Mohan Dharia or anybody else: should we select Mr. Piloo Mody or Mr. Morarji Desai. I am surprised, anti-Communism and anti-Indiraism have made them blind. The whole thing started the day when there was the Agreement between the Soviet Union and India. (*Interruptions*)

All of us have regard for the Supreme Court. We are not against the Supreme Court or High Court. I have all respect for the Supreme Court, but sometimes what sort of decisions have they given! We know what sort of decisions have been given by their favourite judges like Justice Hegde, Justice Subba Rao and others. Whether it was on abolition of Privy Purses or bank nationalisation or anything else, they have given their decisions against the verdict of this House. Whether it is the Supreme Court or this House, both are the creatures of our Constitution. We should have respect for them, court or no court.

When we talked of summary trial in this House of the hoarders, smugglers and others, all the leaders, specially those who pretend to belong to the left, lent their support for summary trial and said: let them be flogged, let them be shot dead. They wanted the smugglers, hoarders and others to be flogged and shot dead. Now, if they are not allowed to go to the court, what is wrong in that?

While suporting this measure, I would only request the Law Minister and through him the Home Minister to see that this power is not misused. After the proclamation of Emergency, I have seen that even the small shopkeepers, who have supported the measures of the Government and have tagged price on every item, are being harassed by their inspectors. Let this Emergency not be a boon for the police officials, those police officials who are corrupt—it is not that all of them are corrupt Some people who were earning Rs 5 a day started earning Rs. 50 a day.

There should be some check on that. The shopkeepers are harassed unnecessarily All the shops in Sadar Bazar and Khari Baoli were closed for three days. I would request you, when you take these powers, use them udiciously When the President is satisfied, or the Government is satisfied or the Administrator is satisfied, such action will be taken. I do not know, what happened to the Lt. Governor, Delhi; why he has been left out; he has done good job in Delhi. It might be a mistake which should be rectified.

While supporting this Bill, I would request the hon. Minister to give an assurance in this House that this is not misused. It is a temporary measure and such measures are needed sometimes. I want to make it clear that we are supporting this only because we anticipate some progressive measures to be taken by this Government. When we support this, we hope that whatever promises have been made by the hon. Prime Minister and her colleagues, will be translated into

action and there would be no complacency, otherwise this will result in frustration among the people and the other right reactionary forces may take advantage of that. With these words I support this Bill.

SHRI K. HANUMANTHAIYA (Bangalore): Sir, this constitutional amendment, it looks to me, is almost non controversial. It is more in the nature of clarificatory amendment than an amendment in substance. It is not even taking away the jurisdiction, rights or discretion of the courts. The Law Minister, in his very brief but very lucid speech, has made it clear that what is being done through this amendment, is to give shape, concrete shape, to the judicial pronouncements themselves. Therefore, Sir, if one has to speak relevantly, as the rule of debates say, there is hardly anything perhaps to add to the lucid speech that has been made by the Law Minister. But, Sir, I would give a little theoretic basis also to this amendment. We generally accept in a democratic system division of powers or functions between the three estates, as they say, the judiciary, the executive and the legislature. From that point of view one should not interfere with the other and the responsibility entrusted to each must be discharged without any impediment, obstruction or delay. So far as maintenance of peace is concerned, maintenance of discipline is concerned, working for the economic progress of the country is concerned, safeguarding the country from external aggression and maintenance of law and order is concerned, these come within the purview of the executive. If there is disturbance and there is failure of law and order, it is the people who suffer, and the responsibility lies with the Minister and the whole Ministry. That is why, in this House, we in season and out of season take the Government to task and the concerned Ministry to task if there is any failure of duty and if there is any failure of implementation in a particular branch of administration.

Here emergency is used in the context of external and internal protection of the people or the nation. This cannot be the province of the Judiciary. This can never be undertaken by an organization like the Judiciary. The Police have to be used. Maybe some times Army has to be used. These are the functions that are given under the Constitution to the executive. Therefore, when the nation has to be protected from internal and external aggression or danger, naturally, it is the sole responsibility of the executive. The President is not only a symbol but also a functionary of the executive. It is not that the President personally does any of these things. He is advised by the Cabinet or he is advised by the concerned Minister. It is on that advice he takes that decision. Therefore, we cannot say that this is a power which is being exercised by one man or that whimsically he can exercise it. Nothing of that kind can happen. It is done in a democratic manner and the Minister or the Ministry that advises takes the risk of incurring the displeasure of the Parliament or the legislature as the case may be. They cannot do whatever they like to safeguard their position. So, everything is interlinked. That is the real democratic machinery that is operating in India. So, the courts have very wisely taken the view that they cannot question the term 'satisfaction' pertaining to the proclamation or declaration under the relevant provisions. Therefore the amendment of the Constitution that we are likely to approve is not only in consonance with the theories of democratic government but also with the practice and, as I said, this is really a clarificatory amendment.

If I may be permitted, as some of my friends have done, to place certain views before the Law Minister and the Government, I will take only two minutes and I have done. The Law Minister says that he wants to give a concrete and indisputable shape to the judicial opinion in the form of an amendment. I would recall to his mind that conferences of Judges and

[Shri K. Hanumanthaiya]

Chief Justices have themselves asked for judicial reform many time. Every forum in this country whether of lawyers or Judges or political parties has asked for judicial reform. The Government is also of that view. I myself took great interest when I was in charge of this portfolio. But it is such difficult thing to do! The difficulty comes in the way and not the intention to reform. As a lawyer, and I have seen many clients personally, I can say that the judicial system is costly, cumbersome. It may end in justice being done or it may not. There are several instances which, for want of time, I cannot quote here. I would only say that in our Kannada language a proverb has been evolved seeing the costliness and the cumbersomeness of the judicial system A client who wins the case is as good as defeated as he has lost so much And the client who loses, is as good as dead. That is the proverb

"Geddonu Sothange, Sothonu Sattange"

That is the proverb that has been evolved. This emergency has provided an opportunity for those who are in Government to do many things new, to do many things daring, to do many things which could not be done in normal times. In fact it is not so much the people that are happy or unhappy with the emergency, my own view is—I am happy—that the whole structure of the Government right from the Prime Minister down to the lowest cadre, have become more conscious more serious of their duty to help the nation, to grow economically and socially to such an extent that what we call a new society may emerge If you have a new society, you cannot have the new society with the old judicial system with its procedure with its cumbersomeness with its uncertainties and delay. So, I would appeal to the Law Minister to take interest in the matter of judicial reform keeping in mind the creation of a new order a new society.

SHRI S. A. SHAMIM (Srinagar): Normally I should not have spoken on this Constitution Amendment Bill but in the context of the situation prevailing and in the light of the speeches made here supporting the Constitutional amendment, I am compelled to say a few words. Sir, whether this issue of subjective satisfaction of the President should have been justiciable or not, this question cropped up long before emergency was imposed. But the Law Minister thought it fit to bring this amendment now so that he is able to make use of the atmosphere of emergency which has been generated artificially in this country and in this Parliament as well, so that he can get away with whatever measures he thinks fit Leaving the Law Minister to his fate, I was amazed by the speech made by Shri Bhagat here who thought about bringing a fundamental change in the outlook—whether we must take more subjects out of the purview of the court or not—as the courts have been interfering with the progressive measures from time to time. You will recall that in this House I, as an independent member, have throughout supported all the progressive measures which this Government has brought. You cannot even recall one measure when I did not extend my support and if this august House feels and Government feels that the court acts as an impediment or obstacle in the way of progressive legislation, I would request Government to bring a piece of legislation abolishing the courts altogether. Let this House debate whether the courts are at all needed in our present day system or not But this backdoor entry keeping the institution of courts and judiciary away and getting all praise from the rest of the world that India has an independent judiciary is not very honest

Shri Bhagat was talking of the peaceful atmosphere in the House of the peace in the country. If the peace of the graveyard is the peace which is in the mind of Shri Bhagat and

his friends, I think there is much to be done to achieve that peace yet.

13.00 hrs.

There are some individuals, some persons and some groups, who still feel that something more need to be done and if Mr. Bhagat's advice is to be taken seriously,—I hope it will be taken seriously—then, whatever is left so far in democracy will not be left. Democracy is a very inconvenient system for you. People talk against you, people oppose you but democracy has a fundamental value in that ultimately the majority will prevail. But it seems that the present-day majority has taken this upon itself, not to have the inconvenience of minority. This House is a witness to many dramas of the opposition. But the House has it on record that in spite of what the opposition did, ultimately, that piece of legislation only was passed which had the approval of the majority. How is it that this has become inconvenient to you now? An illogical argument is being made that because of the emergency the efficiency has improved, the Government employees attend office at 10 A.M., the efficiency in the Railways has improved, and all that. By implication it means that this Parliamentary system which has been there with us for the last 27 years has been wasting our time; by implication it means that this is a sort of 'useless organ'; by implication it means that the day you proclaimed emergency, things have terribly improved. What is the logic of this argument? You say, let us not have this facade of a parliamentary democracy, it impedes the progress of the nation.

And then let us go to the freedom of the press. You have brought press censorship. The stalwarts who have fought for the freedom of the press and freedom of the country today are trying to give justification for censorship by saying that if a certain rumour was allowed to be spread, the country would have collapsed. Madam Gandhi yesterday in her speech said that she was told that the sword recovered from the RSS office was a wooden sword and then she said: "Either you have a sword or you don't have a sword." That is true also of the freedom of the Press. You either have a free press or you don't have a free press. It is not that you have only a press which publishes only what you want them to publish. The essence of democracy is that both the viewpoints must be put before the people and the people in their wisdom must be allowed to judge what is right and what is wrong. You know what newspapers wrote in 1971 and yet people voted for you, they did not go by what the newspapers wrote. "The Myth and the Reality" did not change the situation. How is it that today the mere suspicion of a rumour from the opposition shakes the entire Government? The hon. Member Mr. Bhagat said that if the rumour is allowed to spread the country will collapse. From 12th March onwards you have become mortally afraid of people. Before that you knew people were with you and I had thought on 11th March that people were with you. On 15th March also I thought that people were with you, but you have made me wiser by saying, 'You are sadly mistaken'. If this particular piece of legislation, this amendment, was brought in in good faith, I would have supported it. But this is brought in in bad faith. You have declared war on the people of this country. You have brought this in just to denigrate the judiciary and the courts and the whole world knows the reasons for this. You have no faith in the courts; you have no faith in the judiciary. Here what you say is this:

> "However as the validity of the Proclamation issued under Article 352 has been challenged in several proceedings and as litigation of this nature involves waste of public time and money it is proposed to amend these three Articles."

[SHRI S. A. SHAMIM]

In all those litigation proceedings when people fight for their rights, you have started taking care of yourself. You suddenly got worried that the people should not waste their money. You suddenly become conscious that the people should not waste their time. Therefore you were not allowing the court to decide. Most probably, the court would have decided in favour of the proclamation not being justiciable.

All irrelevant issues are brought about in justification of the emergency. In this particular piece of amendment, somehow the issues needed some clarifications. I say that if it was really needed, why everytime a measure like the MISA is brought forward? Is it to cover up or defend the smugglers? The smugglers should have been arrested long long ago; the smugglers were paying money for the establishment; they are paying money to the Congress Party and other parties so that they can contest the elections. Why then they were not arrested? To-day, strangely enough these very smugglers and political leaders have been arrested. I have all the differences with Mr. Morarji Desai; I do not like one word of what he says in this House. The House has witnessed in this House that on the day when he became the spokesman of the entire Opposition, I stood up and said 'he cannot speak on my behalf. I have said that whatever respect I had for Shri Jayaprakash Narayan, when he presided over the Jan Sangh Session and when I did not see eye to eye with him, I lost the respect I had for him. I never supported him the moment he attended the Jan Sangh session and after his demand for the dissolution of the Bihar Assembly. But I must tell you that I will never accept that he is a smuggler. Then why he has been arrested. In the case of Mr. Morarji Desai it seems he became security risk: he was a smuggler. That is why he has been arrested.

When he went on fast, is it or is it not a fact that Mrs. Gandhi sent to the House and pleaded with him to give up the fast? Mrs. Gandhi did not discuss with him about the smugglers. She requested him to give up his fast and in fact she conceded to his demands. She wanted to have a dialogue with Shri Jayaprakash Narayan. But on that day when it became inconvenient—unfortunately when Justice Sinha gave that judgment—everything has changed and Shri Jayaprakash Narayan became a suspect and he became security risk. And Mr. Desai became a security risk. We are made to believe or we are ordered to believe that Shri Desai became a security risk. It is made clear that it has not happened in a democracy. You say that Parliament has become convenient or orderly or it may become more orderly. I have said in the first instance that my hon. friends from the Opposition did not realise the gravity of the situation and still they are asking for the question hour and the right to move or not to move an amendment.

MR. CHAIRMAN: Mr. Shamim, your time is up.

SHRI S. A. SHAMIM: Sir, I am speaking on behalf of the entire Opposition!

MR. CHAIRMAN: I have given you the time that you needed.

डा० कैलाश (दक्षिण बम्बई) : स्मगलर्स से तो देश की प्रगति के कुछ ही पहलू का नुकसान होता था, लेकिन ये पोलिटीसियन्ज तो सारे देश का ही सत्यानाश कर रहे थे।

श्री शमीम अहमद शमीम : यह दलील जो आप दे रहे हैं, यह कमजोर आदमियों की दलील है। आप में ताकत थी, आप ने मोरारजी देसाई के खिलाफ इलैक्शन लड़ा अब फिर एक और इलैक्शन लड़ कर सारी दुनिया को दिखा देते कि मोरारजी के साथ

कोई नहीं है। मैं भी इस धोखे में था और अब भी इस धोखे में हूं कि मोरारजी के साथ मुल्क का जनता नहीं है।

बनर्जी साहब ने कहा।

We support Shrimati Indira Gandhi's Policy.

I have also supported her 21 point programme. यह कह कर मैं न आप पर अहसान कर रहा हूं और न इन्दिरा गांधी पर अहसान कर रहा हूं।

I expect Shrimati Gandhi to rise to the occasion. She was an ideal of Indian womanhood, ideal of Indian intellectual calibre. But, for me, from 25th of June she is ceased to be so. I wanted her to give me a right but she did not. I held her ideal so long and this is my personal belief. On 25th June she took recourse to emergency and she now talks the language of a dictator and she shows to the world that she has tolerated more than she could. I said Yes, Madam, your toleration has made India the greatest democracy in the world; we were proud of being Indians; we were proud of being citizens of this country and, Mahatma Gandhi could stand all that, but the day you seased to tolerate we are reduced in size and stature. As a proud Indian I have a right to say you are not what you were on 24th June. As a Kashmiri one potential and very relevant argument which we used to give to all those pro-Pakistanis who wanted Kashmir's accession to Pakistan was that we will not go to Pakistan as it is a dictatorship. That is closed society. We will be proud to remain as part of democratic India where everybody is free to say what he wants to say. Today I have lost that argument. I can be told that there is one country which has supported India today by implication and that is Pakistan. Pakistan Radio and Press has practically hailed this step because it supports Mr. Bhutto.

I am opposing this constitutional amendment because I think such an instrument cannot be given into the hands of those who cannot be trusted with power. Even Mr. Banerji said that this is being misused. People who can misuse it once will misuse it two hundred times. We have no faith in you and so we oppose it.

SHRI JAGANNATH RAO (Chatrapur): Mr. Chairman, Sir, I welcome this measure. I had thought, since the proclamation has been approved by both the Houses of Parliament a reference to the circumstances that led to the proclamation of emergency would not be necessary. But I was slightly provoked when Mr. Shamim spoke about the emergency and the circumstances which led to proclamation of emergency. I would have appreciated if he had stated all these things yesterday in his speech while speaking on the proclamation of emergency. The measure before the House is simple. It seeks amendment to certain Articles of the Constitution. But Mr. Shamim having spoken irrelevant, I am a little provoked—without being irrelevant—to say a few things. Were not the Government justified a proclaim emergency when the Opposition parties openly declared in a meeting at Ramlila grounds that they would paralyse the functioning of the Government and they will launch civil dis-obidience movement! Could the Government be a salient spectator to all these threats? If the Government had not taken the required steps these very persons would have accused the Government of not being able to control the situation and would have demanded that it should quit. Government is in a peculiar situation. I want to say if you take into consideration the interests of the country as a whole, you will appreciate by the President on the 25th June. by the President on the 25th of June.

Sir, as the Law Minister explained, there a long array judicial decisions. The question whether the emergency should have been proclaim-

[Shri Jagjivan Ram]

ed or about the duration of emergency is beyond judicial purview. This has been the law. But the necessity that has arisen now is there are some citizens who are detailed under some provisions of the Act who would go to the Supreme Court to take a chance to see if the previous decisions of the Supreme Court could be reviewed. The Supreme Court itself has said so in one case, that is, though the decisions of the Supreme Court are unanimous still some persons will come to the court to take a chance whether the previous decisions of the Supreme Court could not be reviewed. I understand some petitions are already pending and posted for 5th and a learned lawyer, who is also a Member of this House, is dealing with them. They raise all sorts of questions about the continuance of emergency, that emergency does not really exist, that there is no need to continue it and that certain provisions under the emergency powers are not valid and enforceable. To set at rest what you call the supposed rights or the doubts of some people, this amendment has been brought forward. This satisfaction of the President under Article 352 or the Constitution is based on the advice of the Council of Ministers and this is the basis of the strength of the proclamation. It is not the discretion of the President. Here, the President does not issue a proclamation in his discretion. If you go through the Government of India Act, it was the discretion of the Governor General and he could issue a proclamation for a period of six months. Here, the satisfaction of the President is based on the advice of the Council of Ministers. This is relevant.

Further, Sir, when the executive, the Head of the State issues a proclamation, that is not all. Now, the Legislature comes in as a check. This proclamation would last for only two months unless it is approved by both the Houses of Parliament. It is for both the Houses of Parliament to look into the matter, whether circumstances do really exist and whether there is necessity for emergency. Therefore, the Legislature acts as a check so that no excess powers are taken by the President.

But, the Courts, in this matter, cannot act as a third chamber. It is not for the Courts to advise the Government or the Parliament and tell them that they should do this or they should do that. As a matter of fact, when we found that the Courts have interfered or meddled with the laws passed by Parliament, Parliament had come forward and had set them right. Take, for instance the Golaknath case. After the judgment, we passed the Constitution Amendment Bill. The same is the case with nationalisation of banks and abolition of privy purses. We came forward and set right the situation created by the Supreme Court. Therefore, Sir, the powers of the Courts in the matter of judicial review are also limited. The Supreme Court, which is the highest Court of the land, cannot function as a third chamber, and advise the Legislature or the Government. Therefore, whenever there is an emergency, it is the sole responsibility of the Head of the State and the executive to decide whether emergency should at all be there and if so, how long it should continue. It is not for the Courts. Therefore, Sir, this amendment has been brought forward only by way of clarification and abundant caution. No rights are being taken away. The Courts had no right. Therefore, we are not taking away the right of the Courts. My friend Mr. Shamim said that the rights of the Courts are being taken away. He is entirely wrong. There is no right for the Courts. The Courts themselves have said that they have no jurisdiction to go into this matter, whether the proclamation of emergency should at all be issued and how long it should continue. As a matter of fact, I think, in the Lakkanpal case, in 1962, they went into this question and they said that they had no jurisdiction. But, still, some people go to the Courts. As I

said if I can use the language of the Supreme Court—they want to take a chance whether the Supreme Court will review its earlier decision.

If you take this Ordinance making power also, the powers of the President or the Governor or the Administrator as the case may be, are also governed by the advice of the Council of Ministers. There also, the Legislature has to approve. Unless the Bill replacing the Ordinance is brought within six weeks, the Ordinance would lapse. Therefore, the power is limited there also. If you go into this question, you will find that it is the Legislature that functions though initially, he President or the Governor as the case may be takes the necessary decision. Therefore, Sir, there is no point in saying that this is a draconian measure or that the powers of the Courts are being curtailed or that the rights of the citizens are being taken away. During emergency, only the remedy is suspended. The rights are not being taken away. For free citizens, their fundamental rights are not being taken away. Only in regard to those persons who have been detained under these provisions, their remedy to approach the Courts is suspended. That is all.

Therefore, we should not introduce any controversy into this Bill which is otherwise non-controversial. This is a wholesome measure and we should all support it wholeheartedly.

SHRIMATI MAYA RAY (Raiganj): Mr. Chairman, Sir, I am sorry to see that Mr. Shamim has given up his independence. Being an Independent Member, he said that he was voicing the opinion of all the Opposition. The Opposition parties are very inconsistent among themselves, inconsistent in the speeches that they deliver and inconsistent in the actions that they perform.

Before I came into this Chamber, I had occasion to talk to Mr. Shamim and I, by chance, asked him 'Are you a lawyers, Mr. Shamim'? because he has been holding forth on this subject ever since the Session began and even from before when we met in the Table Office and so on. So his line of thinking was quite apparent even from that time; he said 'Yes' and I asked, "Are you a journalist too"; he said 'Yes' in an even louder voice.

That, of course, has been self-evident today, because if he were a lawyer, he would not have made such irrelevant statements as he did. I will presently show you why. The hon'ble Law Minister has already very briefly outlined the basis of the cases upon which the Government is acting, and in so acting the Government is not doing anything new. It is only restating the law as it already stands or exists in the law reports which I hope, Sir, you will give me the indulgance to cite because Shri Shamim must be better educated as a lawyer too. He is obsessed with one judgment as a lawyer, and that is Justice Sinha's judgment. He has not the patience to even wait for the next series. With that one judgment alone he is most concerned. But as a journalist, he is terribly upset about the freedom of the press. I am sure many people realise that this a very draconian measure. But I am one of those persons who believe that the press are entirely capable of looking after themselves. In the last two or three years, I have had the privilege of being a member of this august House and have seen how the press works in the Central Hall. It has been most elucidating. I have not the slightest doubt that there are good people in the press and there are bad people in the press; there are good legislators and there are bad legislators; there are good politicians and there are bad politicians. This House should not be used as a forum only for villifying and hurling abuses against each other across the floor of the House and merely bringing in and saying things under the garb of the privilege that this House allows to

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members to say that which we would not dare say outside because of the danger of a defamation suit being instituted against us. Such is the mettle of the members of the Opposition in *absentia*.

Today we are discussing a very serious matter. They choose to walk out. That again is exactly what I meant as to what the Opposition consists of. However, we need not labour on Shri Shamim too much either because, as I said, I am going to restrict myself today to the legal aspects of the matter.

I am one of those persons who hold the judiciary in the highest esteem and respect. It is one of the pillars of democracy. It is essential to a democracy. Merely because I lose a case before a judge I do not go outside the court and say that that judge is a stupid fellow, he does not know the law and, therefore, he should be taken to task. I am not one of those persons. I have lost many cases I have won many cases I have disagreed with judges in their judgments and have gone in appeal I have lost appeals I have won appeals. But I still say that the judiciary is an essential part of our democracy for it is the greatest check on the executive.

Therefore, coming back to the legal aspect, may I say that the Government in bringing forward these amendments making the promulgation of Ordinances non-justiciable is not doing anything new, but is merely restating the law? Now, we are expressly providing in the Constitution what the courts of law have already pronounced from as far back as 1931.

If I may crave your indulgence Mr Speaker—I am sorry the Speaker is not well enough to take the Chair nowadays; it is nice to have you, Sir, however, as the Chairman—I will cite a few cases. It is a pity Shri Shamim is not here.

SHRI S. A. SHAMIM: I am very much here, attracted by your sweet voice (*Interruptions*).

SHRIMATI MAYA RAY: I will ignore those unnecessary irrelevancies. When Shri Shamim said that the Law Minister was taking advantage of the present situation in bringing in these amendments, he had not taken care to look into the law. This was laid down by the courts of law as far back as in 1931. In AIR 1931 Privy Council I shall cite AIR 1931, Privy Council, page 111. Particularly since Mr. Mavalankar as well is a person who appreciates the British judiciary from where we have accepted the principles of our judiciary, may I tell Mr Mavalankar *in absentia*, though he is not present here now, that that Bench consisted of Viscount Dunedin, Lord Thonkerton, Lord Russell of Killowen, Sir George Lowndes and Sir Dinshah Mulla He cannot hope to find a more eminent Bench They were dealing with section 72 of the Government of India Act and its scope The judgement was delivered by Viscount Dunedin I shall read out the relevant part of it.

"Now the only case that is made here is that Section 72 of Government of India Act did not authorize the Governor-General to make the order he did constituting a special tribunal for the trial of the offenders, who, having been convicted, are now petitioners here. Section 72 is as follows:

'The Governor-General may in cases of emergency make and promulgate ordinances for the peace and good government of British India or any part thereof and any ordinance so made shall for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Indian legislature; but the power of making ordinance under this section is subject to the like restrictions, as the power of the Indian legis-

lature to make laws and any ordinance made under this section is subject to the like disallowance as an Act passed by the Indian legislature and may be controlled or superceded by any such Act.'

The petitioners ask this Board to find that a state of emergency did not exist. That raises directly the question who is to be the judge of whether a state of emergency exists. A state of emergency is something that does not permit of any exact definition. It connotes a state of matters calling for drastic action which is to be judged as such by someone. It is more than obvious that someone must be the Governor-General and he alone. Any other view would render utterly inept the whole provision. Emergency demands immediate action, and that action is prescribed to be taken by the Governor-General. It is he alone who can promulgate the ordinance."

It goes on further to say:

"Their Lordships must add that although the Governor-General thought fit to expound the reasons which induced him to promulgate this ordinance, this was not in their Lordship's opinion in any way incumbent on him as a matter of law."

That petition, Mr. Shamim, was dismissed....(*Interruptions*). I also happen to be a barrister in my own right. My husband is not at present in Delhi to brief me; I come here in my own right as a Member of Parliament and a barrister. I was not a briefless barrister before I came into the House, either.

Now, may I come with utmost respect and humility to my own judiciary in this country of mine of which I am justly very proud. I am referring to 1969 A.I.R. Supreme Court. 903, at 913. I shall give a small synopsis of the case....(*Interruptions*). I am sorry, Mr. Shamim, you must learn to have some patience as a legislator. Mere shouting is not going to achieve anything. The case was like this. The Punjab Assembly had been adjourned for about two months by the Speaker. In the meantime, the financial year was ending on March 31st, and so no money could be drawn from the Consolidated Fund. Under these circumstances, two courses were open under the law. The Ministry could ask the Speaker to recall the assembly. Or the Assembly could be prorogued, to get rid of the adjournment and then it could be resummoned.

Now, I would like to quote "AIR 1969 Supreme Court 903" and I would like to read out the relevant part at page 913. The case was between the State of Punjab and Satya Pal Dang and others The bench consisted of erstwhile judges. They have been eminent judges whether we agreed or may not have agreed with them on certain issues. This bench consisted of the Chief Justice M. Hidayatullah as he then was, Justices J. C. Shah, Justice V. Ramaswami, Justice G. K. Mitter and Justice A. N. Grover as they then were. Now, I will read out the relevant portion:

"18. After the prorogation there was no further curb on the legislative power of the Governor. The power of legislation by Ordinance is as wide as the power of Legislature of the State. Article 2(13)(2)(6) provides than an ordinance promulgated under that Article has the same force and effect as an Act of the Legislature of the State assented to by the Governor except that it must be laid before the Legislative Assembly of the State and the Legislative Council (where there is one) and expires after the expiration of 6 weeks or earlier if it is withdrawn by the Governor or disapproved by the Legislature of the State. Counsel argued that the power of the Governor is only to pass a law under the second and third of the Legislative Lists and not under Article 209(7)".

MR. CHAIRMAN: Let us have the operative part of it.

SHRIMATI MAYA RAY: Then the judgment goes on to say—

> "19. Article 209(7) is intended to speed financial business in the legislatures so that attempts to filibuster, adjourn or otherwise delay such business may be avoided. If ever there was an occasion for the regulation of procedure in the legislature of the State in relation to the financial business by a law under Article 209, it was this. The Legislature could not be allowed to hibernate for 2 months while the financial business languished and the constitutional machinery and democracy itself were wrecked. To suggest that the President's rule should have been imposed instead, is to suggest a line of action which a party not in majority would have obviously preferred but it would have cut at the root of parliamentary government to which our country is fortunately committed. If by adopting the present course parliamentary Government could be restored, there was neither an error of judgment nor a mala fide exercise of power. There was nothing colourable about it. It was intended to achieve a definite purpose by using the constitutional power of the Governor. We are, therefore, quite clear that the action of prorogation cannot be questioned on any of the grounds suggested by the respondents"

Then the second point is that these amendments seek to make the Declaration of Emergency under Article 352 non-justiciable Here, again, the law is being restated and the Constitution is being amended in accordance with the judicial pronouncements already made. (*Interruptions*). The Supreme Court has the final say, Mr. Shamim. The Allahabad High Court is not the only Court in the country. There are other High Courts in other parts of this country. For instance, the Calcutta High Court exists and is the one which has a considerable heritage The Bombay High Court is also there with an equally long heritage.

There is a very interesting paragraph in the judgment AIR 1967 Supreme Court 1335—para 11. That was specifically over-ruled in AIR 1968 Supreme Court 765, which is very important. There are two later cases in 1974, Supreme Court as well which I shall not quote because any lawyer can look them up, and the Hon'ble Law Minister has already cited excerpts from AIR 1974 Supreme Court page 806, paras 16 to 18. I am citing para 11 of AIR 1967 S.C. 1335 at 1338:

> "It was suggested that the declaration of Emergency under Art. 352 of the Constitution in the year 1962 and the continuation of the emergency for 4 long years after the cessation of hostilities with China is mala fide and is an abuse of powers conferred on the President under Part XVIII of the Constitution. The question raised involves two points: (1) whether the declaration of emergency or the continuation of it is vitiated by mala fides or abuse of power, and (2) whether such a question is justiciable in a court of law. Our Constitution seeks to usher in a Welfare State where there is prosperity, equality, liberty and social justice. It accepts 3 concepts for bringing about such a State: 1. Federalism; 2. Democracy; 3. Rule of Law, in which fundamental rights and social justice are inextricably integrated. Under Part XVIII when the emergency is declared both the Legislative and the Executive powers of the Union are conceded to States. The Federal Government is practically transformed into unitary form of Government. The fundamental rights of the people under Art. 19 are abrogated and the Executive is empowered to suspend the rights to move the court for the enforcement of any other

fundamental right. The Executive is also empowered to direct that all or any other provisions relating to distribution of revenue be suspended during that period. Part XVIII appears to bring down the grand edifice of our Constitution at one stroke, but a little reflection discloses that the temporary suspension of the scheme of the Constitution is really intended to preserve its substance. This extraordinary power is unique to our Constitution. It reflects the apprehensions of the makers of the Consituation and their implicit confidence in the parties that may come into power from time to time. Two expressions indicate the extraordinary situation whereunder this Part was intended the to come into force. The expression 'grave emergency' in Art. 352(1) and the expression 'imminent danger' in Art. 352(3) show that the existence of grave emergency or imminent danger is a pre-condition for the declaration of emergency. Doubtless, the question whether there is grave emergency or whether there is imminent danger as mentioned in the Article is left to the satisfaction of the Executive for it is obviously in the best position to judge the situation But there is the correlative danger of the abuse of such extraordinary power leading to totalitarianism. Indeed, the perversions of the ideal democratic Constitution, i e, Weimar Constitution of Germany, brought about the autocratic rule of Hitler and the consequent disastrous World War. What is the safeguard against such an abuse? The obvious safeguard is the good sense of the Executive but the more effective one is public opinion A question is raised whether this Court can ascertain whether the action of the Executive in declaring the emergency or continuing it is actuated by mala fides and is an abuse of power. We do not propose to express our opinion on this question as no material has been placed before us in that regard. It requires a careful research into the circumstances obtaining in our country and the motives operating on the minds of the persons in power in continuing the emergency. As the material facts are not placed before us, we shall not in this case express our opinion one way or other on this all important question which is at present agitating the public mind."

This Bench consisted of Chief Justice K. Subba Rao, Justice M. Hidayatullah, Justice S. M. Sikri, Justice R. S. Bachawat and Justice J. M. Shelat, as they then were. Now, this is an interesting observation. The Supreme Court judgment which came in 1968 is very important I am taking the legal aspects of it.

This is again AIR 1968 Supreme Court 765. The Bench consisted of Chief Justice K. N. Wanchoo, Shri M. Hidayatullah, Shri J. C. Shah, Shri R. S. Bachawat, Shri V. Ramaswami, Shri G. K. Mitter and Shri K. S. Hegde as they then were. I will read out the most important portion.

"(B) Constitution of India, Arts. 359, 13(2) and Part 3—Order under Art. 359 cannot be law within meaning of Art. 13(2) and cannot be affected by it—Order passed under Art. 359 cannot be tested under the very fundamental right the enforcement of which it suspends. AIR 1967 SC 1335 overruled

An order passed under Art. 359 (1) cannot be tested with the aid of Art. 13(2) under that very fundamental right the enforcement of which it suspends. AIR 1967, 1335 overruled.

Article 13(2) and Article 359 being parts of the same Constitution stand on an equal footing and the two provisions have to be read harmoniously in order that the intention behind Article 359 is carried out and it is not destroyed altogether by Article 13(2). Though

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an order under Article 359 may be assumed to be law in its widest sense, it cannot be law within the meaning of Art. 13(2), for if that were so, Art. 359 would be made nugatory. If the order is a law within the meaning of Art 13(2), the result would be that though the order says that the enforcement of a particular fundamental right is suspended during the period of Emergency the order can still be tested with the aid of Art 13(2) on the anvil of the same fundamental right, the enforcement of which it suspends, and then a declaration made thereunder would have no meaning whatsoever."

Lastly, I want to draw the attention of the House to the Supreme Court case AIR 1974 p. 806, paras 16 to 18 by Justice Krishna Iyer, to which the hon. Minister has also made a reference in his speech and to which I have referred earlier in this context

Finally I may say that I am deeply grateful to the Chair and the Minister for Parliamentary Affairs for giving me this opportunity by extending the time allotted

श्री रुद्र प्रताप सिंह (बाराबांकी) : सभापति महोदय, मैं आपका हृदय से आभारी हूं जो आपने मुझे संविधान (संशोधन) विधेयक, 1975 पर अपने विचार प्रकट करने का अवसर दिया है। मैं उसका समर्थन करने के लिये खड़ा हुआ हूं।

माननीय सदन स्वयं इस बात का साक्षी है कि जब भी विश्व की महानतम तथा संसार की सर्वश्रेष्ठ प्रधान मंत्री श्रीमती इन्दिरा गांधी के नेतृत्व वाली कांग्रेस पार्टी जिसकी सरकार है, वह इस महान सदन में कोई संविधान का संशोधन प्रस्तुत करना चाहती है, तभी इस महान सदन के जो भी दक्षिणपंथी, प्रतिक्रियावादी, सम्प्रदायवादी और यथास्थितिवादी दल है, उन्होंने उसका सदैव विरोध किया है। संविधान में भी संशोधन प्रस्तुत किया गया है, तभी उन्होंने कहा कि लोकतंत्र की हत्या हो रही है, संविधान का गला घोंटा जा रहा है। संभवतः उनकी दृष्टि में भारत का संविधान ईश्वर का वाक्य है जिसमें कभी किसी प्रकार से परिवर्तन नहीं होना चाहिए। आपके माध्यम से मैं उनको बताना चाहता हूं कि भारत का संविधान भारत की जनता के लिए है और भारत की जनता के कल्याण और हित में जब कभी आवश्यकता होगी, जब कभी अपेक्षा होगी, उसमें निश्चित रूप से परिवर्तन किया जायेगा।

संविधान जन कल्याण का एक साधन है, स्वयं एक साध्य नहीं है। भारत की जनता संविधान और लोकतंत्र से भी बढ़ कर है। संविधान में भारत की महान जनता के कल्याण हेतु जो विधान दिया गया है, उसके कार्यान्वयन के मार्ग में जब कभी न्यायपालिका या उच्चतम न्यायालय की ओर से बाधा उपस्थित होती है जैसा कि अक्सर हम देखते हैं, इस पांचवीं लोक-सभा में हमने देखा है कि अनेक बार न्यायपालिका के द्वारा उसमें बाधा उपस्थित हुई और कार्यपालिका के द्वारा भी जिस प्रकार उसका कार्यान्वयन होना चाहिए वह नहीं होता है तो जब भी ऐसी परिस्थिति आयेगी, हमें निश्चित रूप से संविधान का संशोधन करना पड़ेगा।

प्रधान मंत्री श्रीमती इन्दिरा गांधी के नेतृत्व वाली सरकार इस बात के लिए वचनबद्ध है कि देश में जो अनुसूचित जाति, अनुसूचित जन जाति, सर्वहारा शोषित वर्ग और अल्पसंख्यक है, उनके हितों की रक्षा की जायेगी। जब कभी इस प्रकार की परिस्थिति पैदा होती है कि उनके कल्याण करने के लिए किसी प्रकार से अगर बाधा आती है तो उसके लिए हमें संविधान का संशोधन करना होगा।

प्रधान मंत्री श्रीमती इन्दिरा गांधी ने देश में सामाजिक और आर्थिक विषमताओं को समाप्त करने के लिए जो संकल्प ले रखा है, उस दिशा में जो उन्होंने दृढ़ कदम उठाया है, जैसा कि माननीय सदस्य को ज्ञात है कि बैंकों का राष्ट्रीयकरण करना, बड़े राजा-महाराजाओं के विशेषाधिकारों को समाप्त करना और साथ ही साथ उसी दिशा में इस महान सदन ने भारत के संविधान का 24वां संशोधन पारित किया है। हम आशा करते है कि इसी प्रकार से यदि आवश्यकता पड़ी तो देश के जो बड़े बड़े आई० सी० एस० आफिसर हैं, उनके विशेषाधिकारों को भारत की जनता के कल्याण हेतु समाप्त करना आवश्यक होगा, तो उन्हे भी समाप्त किया जायेगा।

प्रधान मंत्री श्रीमती इन्दिरा गांधी के द्वारा आपातकालीन स्थिति में जो आर्थिक 20 सूत्री कार्यक्रम घोषित किये गये है, उनको हमें युद्धस्तर पर कार्यान्वित करना होगा और उनके कार्यान्वयन में जो भी बाधा उपस्थित की जायेगी, चाहे विधान के नाम पर चाहे नियम के नाम पर हमें उसका सामना करना पड़ेगा। माननीय सदन इस बात से सहमत होगा यदि उसमें भी किसी प्रकार की कठिनाई आती है तो हमें संविधान का संशोधन करने में किसी प्रकार का संकोच नही होना चाहिए। समय में तीव्रता के साथ परिवर्तन हो रहा है और इस परिवर्तन का प्रभाव देश और विश्व के समस्त देशों में होना स्वाभाविक है। हम उस परिवर्तन से आंखें नही मूद सकते है। यह सौभाग्य की बात है कि श्रीमती इन्दिरा गांधी के नेतृत्व में भारत में उस समाजवाद के रथ का पहिया अब सड़क पर आ गया है। हमें आशा है कि वह तीव्र गति के साथ आगे बढ़ेगा। भारत की महान जनता को इस बात का विश्वास है कि देश में जो सामाजिक और आर्थिक विषमताएं हैं, वह दूर होंगी और जो सामाजिक व आर्थिक न्याय होना चाहिए वह अवश्य होगा।

ऐसी परिस्थिति में जब कि देश के अन्दर तमाम ऐसी शक्तियां, तमाम यथास्थितिवादी शक्तियां और ऐसी शक्तियां जो देश में हिंसा का, अराजकता का, अस्थिरता का वातावरण पैदा करना चाहती हैं, जैसे कि देश में राष्ट्रीय स्वयं सेवक संघ है, जमाते इस्लामी है, आनन्द मार्ग है, ऐसे तमाम संगठनों और दलों को जिनको अब बैन किया गया है, यह प्रसन्नता की बात है। इस प्रकार के कार्यों को करने के लिए, उनकी गतिविधियो पर अंकुश लगाने के लिए यदि संविधान में संशोधन की आवश्यकता होगी तो अवश्य किया जायेगा। मैं विश्वास करता हूं कि विरोधी दलों के नेताओं को इसमें कोई आपत्ति नही होनी चाहिए कि जन कल्याण को दृष्टि में रखते हुए, जब भी संविधान में संशोधन करना आवश्यक होगा वह अवश्य किया जायेगा।

सभापति महोदय : माननीय सदस्य भाषण समाप्त करें। यदि समय की पाबन्दी नहीं करेंगे तो मैं 2.45 तक इतने मेम्बरों को समय नहीं दे पाउंगा। माननीय सदस्य या तो 5 मिनट में अपना भाषण समाप्त कर दें या मैं नीचे के 4, 5 सदस्यों को बोलने के लिए नही बुला सकूंगा।

श्री मूलचन्द डागा (पाली) : टाइम शुरू में रेगुलेट होना चाहिए। पहले बोलने वाले सदस्य एक-एक घण्टे तक बोल जाते हैं और वह इर्रेलेवेन्ट बात भी कहते है।

सभापति महोदय : आप यह बात अपने चीफ व्हिप महोदय को कहिए।

श्री परिपूर्णानन्द पैन्यूली (टिहरी गढ़वाल) : सभापति महोदय, अगर केवल 4, 5 मिनट का टाइम ही दिया गया तो इससे तो न बोलना अच्छा है।

सभापति महोदय : आपका नाम लिस्ट में है।

माननीय सदस्य श्री रुद्र प्रताप सिंह अब अपना भाषण समाप्त करें।

श्री रुद्र प्रताप सिंह : मैं केवल आधा मिनट लेना चाहता हूं। मैं विरोधी दलों को केवल यह बात कह कर अपनी बात समाप्त करता हूं कि —

हवाएं तो दीं तुमने लाख अपने दामन से,

मगर चराग़े तमन्ना की लौ बुझा न सकी।

इन शब्दों के साथ मैं इस महत्वपूर्ण विधेयक का हृदय से समर्थन करता हूं और आपकी आज्ञा का पालन करता हूं।

SHRI B. R. SHUKLA (Bahraich): This Bill seeks to enact nothing new but simply reiterates the legal position already recognised by the highest courts in the country. A common feature of the Clauses of this Bill is that the satisfaction of the Governor or the President or the Administrator in exercising certain functions under the Constitution is not to be made debatable or justiciable in a court of law. This position was already there. It is contained in the Constitution and Privy Council and also its successor the Federal Court and the Supreme Court have come to the same conclusion that the satisfaction of the Governor, the Administrator and the President of India are not matters which can be said to be justiciable. Therefore, there is not much point in Members digressing from the point involved in this Bill.

Mr. Shamim, who is otherwise a very good and able speaker, I can say, has not either read the Bill at all or, if he has read the Bill, has not understood its scope. He was still labouring under the delusion that the debate on the proclamation of emergency had not concluded though it has been concluded today. The point is, as the Hon. Minister has made it very clear in his opening speech, that in spite of clear settled judicial opinion in this country, there are still advocates and lawyers and also uniformed members of the public who think that the satisfaction of the President, the Governor and the Administrator in proclamation an emergency or in assuming ordinances can be debated in a court of law. It was suggested or alleged by Mr. Shamim that because a bad faith was involved in bringing this Bill, he was opposing it. But we have to oppose or support a Bill and its provisions on its own intrinsic merits and the motives are wholly irrelevant. I know he is also a lawyer, but I think he has been more of a poet and a platform speaker than an astute expert of constitutional law.

There are occasions when the President acts on his own subjective satisfaction. Firstly he does so in proclaiming an emergency when the security of India is threatened by external aggression or by internal disturbance and secondly when there is financial instability threatening the country. Why was this Bill necessary? Already there was a state of emergency coming from December, 1971, when India was threatened with foreign aggression in the shape of Pakistani war. Then emergency was declared. Now internal disturbance was also threatening the security of India, therefore, a fresh proclamation of emergency was made. Therefore, there may arise a doubt whether any legislation or action taken in pursuance of the second proclamation of emergency would be legal. In order to set at rest such doubts and controversies, this Bill has been brought before the House. I extend my whole hearted support to this Bill. The Minister is perfectly right in bringing forward this Bill at this time so as to end all controversies in future.

SHRI SHANKERRAO SAVANT (Kolaba): I rise to support the present amendment to the Constitution. It is purely a clarificatory amendment. Under the law as it stands today, a Governor, the President or an

Administrator has to be satisfied that conditions have arisen which make the use of extraordinary powers justifiable. The main purpose of the present amendment is to make this satisfaction of the President, the Governor or the Administrator before issuing a proclamation of emergency or an ordinance, non-justiciable. As a matter of fact, the wording of all these articles will show that the satisfaction of the President or the Governor or the Administrator is based on political considerations. It may even be based on secret reports of the movements of some internal or external enemy and so, on the face of it, it cannot be justiciable. Never before was the satisfaction considered to be justiciable but judicial opinions are so flickering and you can never be sure about them. Our Supreme Court has never accepted the principle of *stare decicis*. Every year it reverses its own judgements. In Golaknath's case it reversed two of its earlier Full Bench rulings. Whenever Parliament has tried to forge ahead with schemes of social amelioration, the judiciary has created stumbling blocks in its path and has for that purpose even reversed its own earlier judgments. That is the history we have to face.

Let us take the latest example. Everybody was saying that the smugglers must be sternly dealt with as they had created a parallel economy in the country. But when the Government took action under MISA against well-known smugglers, the courts ran to their help. The Delhi High Court became the haven of such notorious smugglers. Smugglers from all parts of the country came to Delhi and they were released by the Delhi High Court one after the other on some ground or other. Semantic quibbling and forensic acrobatics are limitless. They change not only an "or" into "and" but even a notorious smuggler into a respectable citizen. And strangely enough there are political parties in our country which run to the help of these smugglers when the Government tries to plug the loopholes in the MISA Act by opposing this plugging.

Under the circumstances it is necessary that the law should be both fool-proof and knave-proof. It is to make it both fool-proof and knave-proof that the present amendment is necessary. They say that writ petitions are costly and therefore it is not easy to resort to them. This is true so far as the common man is concerned, but for smugglers and for persons and parties which receive subsidies from abroad, nothing is costly. They can file any number of writ petitions. Hence, the need for this amendment and I support it with all the emphasis at my command

SHRI B. K. DASCHOWDHURY (Cooch-Behar): I shall try to be brief and finish within five minutes. but if I exceed it by one minute I hope you will not mind.

MR. CHAIRMAN: Take four minutes and exceed by one.

SHRI B. K. DASCHOWDHURY: This Bill, the Constitution (Thirty-Ninth Amendment) Bill, it should be the thirty-eighth Amendment, seems to have the largest number of amendments to the Constitution in a single Bill, but the subject matter is not so large. I would like to divide it into three parts.

14.00 hrs.

I would like to classify all these seven articles, which are mentioned in the Bill, such as Articles 123, 213, 239B, 352, 356, 359 and 360, into three parts. Firstly, there is one thing in common between Articles 123, 213 239B, 352, 356 and 360, that is, in the explanation of the subjective satisfaction of the authority concerned, either in the case of President or the Governor or the Lt. Governor or the Chief Commissioner, as the case may be. Secondly, in Article 352, apart from this clause of subjective satisfaction, there is something more added.

[Shri B. K. Daschowdhury]

The President seems to have been given more power even to issue more orders during the time of emergency. Thirdly, the amendment to Article 359 seems to me a really very new one and it is desired to cover the lacuna left in its existing form.

Sir, let me deal with the Article 359 first which is really something new. It says:

MR. CHAIRMAN: Please do not quote it.

SHRI B. K. DASCHOWDHURY: It says:

> "Where a Proclamation of Emergency is in operation the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order."

As far as Article 359 is concerned, as it is in the Constitution, that does not mean infringement of any rights provided in the Constitution, even though the emergency is there. It simply means that the citizens or the litigants have been debarred from moving the court for enforcement of their fundamental rights and nothing more than that. As far as Article 358 is concerned, it is very clear particularly with reference to Article 19. The moment an emergency is proclaimed by the President of India, the provisions of Article 19 stand suspended. But about other parts of the fundamental rights in Part III of the Constitution, probably, at the time of the formation of the Constitution, the distinguished lawyers or the distinguished members of the Constituent Assembly, thought that as we were following the British pattern in the House of Commons, we must have certain clauses of indemnity under this Article as is in the case of U.K. and that this Act of Indemnity would be passed by Parliament in course of time. But, Sir, till now, no such act of indemnity has been passed. Therefore, it was very much necessary and essential at least to have this clause for any act done or deemed to be done which is supposed to be or may be incompetent in relation to the various provisions of the Constitution, more particularly with reference to Part III of the Constitution. Without this if somebody sues the Government or any executive of India for taking any such action, after the Emergency there will be no remedy. So, it was very much necessary and essential at least to cover this clause. By this amendment, this particular lacuna in the Constitution which was missing has been completely covered, what can be termed otherwise as an indemnity clause.

Coming to the second part, the main important part of this one is the question of subjective satisfaction. I do not like to deal with matters which have been referred to in detail. I would simply like to refer one more point to the hon. Law Minister. As you know, the President, though he is the highest symbol of the country, the nation, and everything goes in his name, the powers of the President are just limited within the framework of the Constitution as the powers of the three distinct branches, legislative, executive and judiciary, are also limited. In all such cases, the President is to work under article 74(1) only on the aid and advice given by the Council of Ministers headed by the Prime Minister. As a matter of fact, the President, in that regard, has got very little discretion to act. To be true, he cannot act otherwise, except in some limited cases where discretion may be applied.

At the same time, what we find in article 74(2) is that any advice given by the Council of Ministers to the President cannot be asked or seriously

challenged in any court of law. I would rather say that it has always been intended to be that the article 352 is to be regarded as a subjective satisfaction of the authorities concerned. That has also been covered by article 74(1) and (2). We have similar provisions in articles 163 and 164 relating to Governors. I do not like to deal with them separately.

It has been made quite clear and the hon. Law Minister, while moving the Bill has also said that no court has ever said that this satisfaction of the President of India or of the Governor, as the case may be, should be limited to the justiciability. It is very clear as some hon. Members have said it. If you go through the articles, you will find that nowhere it has been mentioned that whenever a proclamation is to be issued, when Emergency is to be declared, the President and the authorities concerned must give out a list of reasons. It is known to any lawyer that unless the objective criteria are given, nobody can say that this objective test must be there. From that point of view also, it is clear that it is never intended to be justiciable. It is not justiciable. As a matter of fact, it should be done according to the satisfaction of the President or the Governor, as the case may be.

My last submission is this. Some hon. Members of the Opposition read out a letter in this House. They are not here. They are opposed to this Bill also. If the President or the Governor, as the case may be, is to work on the aid and advice given by the Council of Ministers headed by the Prime Minister or the Chief Minister, as the case may be, what does it mean? It means that the authorities are to work not according to their discretion but according to the advice of the Council of Ministers. Even if a proclamation is to be issued, an Emergency is to be declared, that has also to be declared on the aid and advice given by the Council of Ministers headed by the Prime Minister or the Chief Minister, as the case may be. Now, the Prime Minister or the Chief Minister heading the Council of Ministers is the person or the group of persons who are having the confidence of the people as it has been expressed in Parliament or in the State Legislatures or even outside. If the majority of the people in the country feel that it should be there, where lies the question of objection?

With these remarks, I fully endorse the views of the hon. Law Minister and I support the Bill. I would simply say that this Bill is of a clarificatory nature, which ought to have been brought forward much earlier than now. Anyhow, better late than never

श्री परिपूर्णानन्द पैन्यूली (टिहरी-गढ़वाल) : सभापति जी, मैं इस संशोधन विधेयक का समर्थन करता हूं और इसका समर्थन करते हुए एक बात कहना चाहता हूं कि यह विधेयक मुख्य रूप से उन तत्वों पर लागू होता है, उन तत्वों को इस से डरने की जरूरत है जो या तो स्मगलर्स हैं, टैक्स इवेडर्स हैं या जिनकी राजनैतिक गतिविधियां ऐसी हैं कि जो देश को कमजोर करना चाहते हैं, देश को टुकड़ों में बांटना चाहते हैं और फिर दोबारा देश को गुलाम बनाना चाहते हैं। इस में, मैं आप से निवेदन कर रा चाहता हूं, कि स्मगलर्स की बात ले लीजिए। छोटे मोटे तकनीकी आधार पर पिछले 30 अप्रैल को दिल्ली के हाई कोर्ट में सुकर नारायण बखिया और पांच अन्य तस्करों को रिहा कर दिया। इस प्रकार फंडामेंटल राइट्स की दुहाई दे कर न केवल ये तस्कर, टैक्स-इवेडर्स बल्कि दूसरे असामाजिक तत्व लाभ उठाते रहे हैं। उन पर जब तक इस प्रकार का प्रतिबन्ध नहीं लगाया जाता है, तब तक उन की

[श्री परिपूर्णानन्द मैन्यूल]

गतिविधियों पर कोई रुकावट नहीं हो सकती ।

जहां तक गैर-जिम्मेदार राजनीतिक नेताओं का सवाल है, मैं स्पष्ट कहना चाहता हूं कि इमर्जेन्सी लागू होने के बाद जो हालात पैदा हुए और जगह जगह तालाशियों में जिस प्रकार का साहित्य पकड़ा गया, जिस प्रकार के हथियार बरामद हुए, उस से साबित होता है कि इस के पीछे एक बहुत बड़ी साजिश थी, जिस में न केवल इस देश के गैर-जिम्मेदार, देश-द्रोही तत्वों का हाथ था, बल्कि दूसरे मुल्कों का भी हाथ था । मुझे खेद होता है, जब मैं श्री जय प्रकाश नारायण का उल्लेख करता हूं । जिस व्यक्ति का पिछला जीवन इतना ऊंचा, आदर्शमय जीवन, रहा हो, वह आखिर में आ कर कहां पहुंच गया ? उन्होंने एक तरफ़ पुलिस को आज्ञा का पालन न करने के लिए भड़काया, तो दूसरी तरफ़ फौज को भड़काया । उनमें उन्होंने यह कह कर भ्रम पैदा करने की कोशिश की कि काफ़ी बड़ी संख्या में पुलिस और फौज के आदमी ऐसे हैं जिन की हमारे साथ सहानुभूति है । इस में कोई संदेह नहीं है कि श्री जय प्रकाश नारायण एक फ़्रस्ट्रेटेड पालीटिशियन हैं । पहले वे पार्टीलेस डेमोक्रेसी की बात करते थे और अब टोटल रेवोलूशन की बात करने लगे हैं । पार्टीलेस डेमोक्रेसी और टोटल रेवोलूशन को मिला कर आप देखें, तो जिस व्यक्ति के दिल में इस प्रकार की भावनाएं हों, वह अच्छा खासा डिकटेटरशिप मनोवृत्ति वाला आदमी ही होगा । एक तरफ तो वे लोकतान्त्रिक और समग्र क्रान्ति की बात करते रहे किन्तु दूसरी तरफ़ उन के वही लांछन हमारे ऊपर लगते रहे । कांग्रेस के ऊपर और श्रीमती इन्दिरा गांधी के ऊपर वे आरोप लगाते रहे कि वह डिक्टेटर और फासिस्ट हैं । मुझे खेद होता है यह कहते हुए कि हमारे देश के जितने अराजकता-पसन्द तत्व थे, जितने भी हिंसक तत्व थे, जितने भी देशद्रोही तत्व थे, वे सब उनकी छत्रछाया में आ गये । प्रश्न यह नहीं है कि एक एक कर के अथवा संगठित रूप से सारे हिंसक तत्व वहां मौजूद थे, प्रश्न यह है कि हिंसा पैदा करने का वातावरण बनाने वाले तत्व कौन थे ? इसमें कोई संदेह नहीं है कि श्री जय प्रकाश नारायण तथा इस प्रकार के हमारे गैर-जिम्मेदार विरोधी तत्व इस के लिए मुख्य रूप से जिम्मेदार थे । जय प्रकाश नारायण जी ने फासिस्ट तत्वों को सम्मानित किया । आप को याद होगा कि आर० एस० एस० की रैली में जय प्रकाश नारायण जी ने यह कहा था कि अगर आर० एस० एस० फासिस्ट है, तो मुझे स्वीकार है, मैं भी फासिस्ट हूं । आप को याद होगा कि गोवा में जब हम ने कार्यवाही की थी, गोवा को विदेशी शासन से मुक्त किया था, उस समय इन का क्या रोल था । उस समय उन्होंने हमारे देश के नेताओं के कार्यों की आलोचना की थी । आप को याद होगा कि पिछले सत्र में जब कि सिक्किम को सह-राज्य का दर्जा देने की बात हुई तो ये विरोधी तत्व कहने लगे कि इस के अन्तर्राष्ट्रीय परिणाम होंगे । जो तत्व इस प्रकार की बात सोचते हैं यदि उन का विदेशी तत्वों के साथ गठबन्धन नहीं होगा तो क्या होगा ? मिसाल के तौर पर आप की इजाजत से एक बात मैं पेश करना चाहता हूं और उसे गृह मंत्री जी के पास भेजना भी चाहूंगा । लन्दन से छपा हुआ एक लिफ़ाफा मेरे पास आया । शायद और भी संसद् सदस्यों के पास आया होगा । इसमें स्वराज नाम का तथाकथित पत्र है । इस नाम का समाचार पत्र मैंने न तो कभी देखा न सुना, यद्यपि जीवन भर पत्रकारिता की है । इंगलैण्ड के जितने अख़बार हैं, उन्होंने इमर्जेन्सी के बाद हिन्दुस्तान के खिलाफ़ एक अनर्गल प्रचार किया । उस के री-प्रिन्ट्स इन्होंने छपे हैं । लन्दन की जो मलिका हैं, उनकी

डाक मुहर पर वहां से डिस्पेच किया है। किस ने संगठित रूप से इस की एडटिंग का काम किया ? कौन तत्व यहां पकड़े गये, इन्दिरा गांधी फासिस्टवादी तानाशाह हो गई, देश में भयंकर स्थिति पैदा हो गई, इन बातों को लन्दन से छाप कर यहां भेजने के काम में अगर विदेशों का हाथ नहीं है तो और क्या होगा। पहले तो मैं यह कहना चाहता हूं कि इंगलैण्ड का हमारी आन्तरिक नीति में यह हस्तक्षेप है। बी०बी०सी० सदा ही हमारे देश के सम्बन्ध में ग़लत रिपोर्टें देता रहा है। मैं आप को बताना चाहता हूं कि हैदराबाद में निज़ाम के वक्त में जब पुलिस एक्शन हुआ था, तो बी० बी० सी० रेडियो ने ब्राडकास्ट किया था कि हिन्दुस्तान की फ़ौजों ने हैदराबाद पर हमला कर दिया है। जिस देश का इस प्रकार से हमारे देश के विरुद्ध काम हो, तो वह मित्र देश कदापि नहीं हो सकता है। ए० आई० सी० सी० की मीटिंग में वर्षों पहले एक बार मैंने निवेदन किया था कि हमें राष्ट्र मंडल में अपना कोई स्थान नहीं रखना चाहिए। आज फिर मैं कहता हूं कि राष्ट्र मंडल में रहने की हमें कोई जरूरत नहीं है, जिस में इंगलैंड जैसा देश हमारे देश के हितों के विरुद्ध काम करता हो। गृह मंत्रालय ने जो "ह्वाइ इमर्जेंसी" नामक पुस्तिका निकाली है, उस में ऐसे तथ्य हैं जो साबित करते हैं कि ऐसे तत्वों ने विदेशों के साथ गठबन्धन कर के उन से पैसा ले कर देश को बेचने की कोशिश की थी। इस किताब के पृष्ठ 56 पर जो जय प्रकाश नारायण की रामलीला मैदान की आखरी तकरीर है, उसका एक सेंटेंस यहां सुनाना चाहता हूं :

"Nanaji Deshmukh has given a call on behalf of my Party. It has my support and I am also a party to it."

जिस का व्यक्तित्व इतना नीचे गिर गया हो, फासिस्ट तत्वों के साथ मिल कर उन के साथ गठबन्धन कर के जो देश को अराजकता के गढ़े में डालना चाहता हो, उससे हम क्या आशा कर सकते हैं।

अन्त में मैं एक निवेदन करना चाहता हूं। शुरू में हमारे विरोध पक्ष के कुछ भाई यहां से निकल कर चले गये। श्री त्रिविद चौधरी ने फ़्रीडम आफ़ दि प्रैस की दुहाई दी। हमारे देश में फ़्रीडम आफ़ दि प्रैस के नाम पर जिस प्रकार का अनर्गल प्रचार किया गया, विध्वंसक तत्वों को जिस प्रकार से प्रोत्साहित किया गया, महंगाई को जिस प्रकार से प्रोत्साहन दिया गया, अगर उसी तरह की फ़्रीडम आफ़ दि प्रैस वह चाहते हैं, तो मेरा निवेदन है कि उस की कोई आवश्यकता नहीं है।

विरोधी दल के एक नेता मुझे बाहर मिले। मैंने उन से पूछा कि वे लोग वाक-आउट क्यों कर गये। वह कहने लगे कि हमारी स्पीच अखबारों में नहीं छपती हैं, रेडियो में प्रसारित नहीं होती है, तो इस हालत में हमें बोल कर क्या करना है। जो लोग इस दृष्टि से इस सदन की कार्यवाही में भाग लेते हैं कि उन की वाह-वाही हो जाये, उन के लिए क्या कहा जाये ?

अन्त में एक बात कह कर मैं समाप्त करूंगा। इस प्रकार के 26 फ़ासिस्ट दलों पर, जिन की हिंसा में आस्था है, केवल प्रतिबन्ध लगाना ही पर्याप्त नहीं है। उन को समर्थन देने वाले राजनतिक दलों पर भी प्रतिबन्ध लगाने की आवश्यकता है। महेश योगी की संस्था आदि जो सी० आई० ए० के अड्डे बने हुए हैं, जिन के माध्यम से विदेशी पैसा खर्च कर के देश की सुरक्षा को खतरे में डालने का काम होता है, उस प्रकार के तत्वों पर भी प्रतिबन्ध लगाने की आवश्यकता है।

जहां हम इस बहुत अच्छे कदम का समर्थन करते हैं, वहां इस बात को भी

[श्री परिपूर्णानन्द वेयूली]

आवश्यकता है कि हम अपने नौजवानों को इस प्रकार की शिक्षा दें कि वे विकास के कामों में अधिक से अधिक दिलचस्पी ले सकें, उन कामों में उन का योगदान हो सके, ताकि बेरोजगारी के कारण असंतोष की भावना हमेशा के लिए समाप्त हो जाये।

इन शब्दों के साथ मैं इस विधेयक का हार्दिक समर्थन करता हूं।

SHRI AMARNATH VIDYALANKAR (Chandigarh): Mr. Chairman, Sir I think that this is one of the most non-controversial Bills that had ever been brought. I am not a lawyer, but exercising my common-sense, I would say that the Bill does not say anything which would be controversial. It only seeks to say that the "satisfaction" of the President mentioned in Clause (1) shall be final and conclusive and shall not be questioned in any court on any ground. "Satisfaction" is really a psychological state of mind; it is not for anybody else to determine that; it is subjective. If a person says that he is 'satisfied', can anybody else say, 'No; you are not satisfied'? No one can dictate as to when one should be 'satisfied' and when one should not be 'satisfied'. It is not a question of anybody else's judgment to declare when the 'President' was satisfied, or at what point of time he should have been satisfied or not satisfied. This is a subjective thing. And in this matter the President has been given the discretion that when he is satisfied that certain conditions existed, he can take a certain course of action. Therefore, this is only a clarifying Bill. Really it does not take away any power from the judiciary. Rather, if the judiciary sought to take away the power of the President to define his "satisfaction", this Bill prevents the judiciary from taking that discretion from the President.

That is how I see and that is why I say that a little exercise of our common sense will show this is a most non-controversial Bill. I am surprised, opposition has taken so much exception. Only it is for purposes of clarification, because many persons might go to court, to waste the time of the court and unnecessarily try to divert the attention of the people from more important things.

My friend, Shri Shamim, was saying that there was no logic in the arguments, what was the state of affairs and why emergency was so much necessary. If we want to progress, a certain climate is needed. We want to create proper climate but certain elements in the Opposition constantly attempted to spoil that atmosphere. They wanted to created a situation in which people should lose confidence in their Government, lose confidence in their ownselves and lose confidence in the progress of the country. They wanted to perpetuate that kind of climate, and, therefore, it was absolutely necessary that if we wanted progress, we should try to improve the climate. There should be a climate, where the people should feel inspired, where the people should feel self-confidence and where the people should have sufficient amount of confidence in the Government that has been elected by the people. If the Government had not been elected by the people, and if there is any Government which has imposed itself on the people, everybody has right to destroy the confidence in that Government. But here is a Government which has been elected through democratic means by the people. To destroy the confidence in that Government and to create a climate where people should begin to feel that this Government was not going to achieve anything, that certainly is not desirable. According to the Constitution, there cannot be a minority Government. If this Government is not good, are the Opposition or any party in a position to form the Government? They cannot form the Government. Then should there be chaos? What was being attempted was to create a situation of chaos and in that chaos they thought, they could capture power in the country. This was the situation and this was the climate in which it was absolutely right for the

President to judge the situation and take action. It is for the President or the executive, and this was the prerogative of the executive, to judge the situation and decide when such action should be taken. This was the spirit and letter of the Constitution.

It has been said that the freedom has been curtailed. Whose freedom has been curtailed? Has the common man got the opportunity to voice his feelings in the press? He has not got this as the press is run by the barons of the press. I know certain instances, Mr. Chairman, where the workers wanted to get certain things printed in the press, legitimate things. their demands etc. and the press absolutely blacked them out. I know of instances, where even the late Prime Minster, Shri Jawahar Lal Nehru's speechs were blacked out by the press, because certain things that he said were not according to the taste and according to the wishes of our press.

So, the Press here, the way it is working, is not a free press. Therefore, the freedom of which our opposition members are talking was the freedom of a few and in order to protest the freedom of the people and in order to protect the freedom of the common man, it is absolutely necessary that the freedom of those few should be curtailed where they tried to impinge on the freedom of the people.

There is a lot of talk about corruption etc. I am surprised that the very same people who had been occupying administrative chairs, and at that time were being accused of corruption and many other things, are now coming out, accusing the present government of those very charges. Shri Morarji Desai—when he was a Minister, the same opposition was accusing him of corruption and personal attacks were being hurled at him. I do not want to go into the details. Biju Patnaik and many others were being at that time accused of corruption. Having spoilt the atmosphere for so many years when they were in the administration-they were practically controlling the Congress Party—for that very situation that they had created themselves they are now accusing the present government. Being in the minority, they feel very much frustrated and in that frustration they would now like to create a situation of chaos and they thought that this is the only way to capture power.

I think it was a right thing that the Government has taken certain action and I support this amendment which I have said is most non-controversial and we should all support and pass it.

श्री मूल चन्द डागा (पाली): सभापति महोदय, यह बिल एक इन्नोसेन्ट और नान-कण्ट्रोवर्शियल बिल है । इस विषय पर श्रीमती माया रे ने हाई कोर्ट और सुप्रीम कोर्ट के सारे रूलिंग कोट कर दिये है । एक बात बडी साफ़ है—जब इस लोक तन्त्र में हम लोग सारे हिन्दुस्तान से चुन कर आते है और हमारे द्वारा राष्ट्रपति चुना जाता है, तो उसके प्रोक्लेमेशन का, उस की घोषणा का एक जज बैठ कर चेलेन्ज कर दे, उस के लिए खिलाफ़ निर्णय दे—यह कहां तक शोभाजनक है । आखिर हम जनता के चुने हुए प्रतिनिधि है, हमारे में से कैबिनेट बनती है, वह कैबिनेट राय देती है और उस के आधार पर राष्ट्रपति द्वारा आर्डिनेन्स जारी होता है, उस आर्डिनेन्स का एक जज चेलेन्ज कर दे तो यह कहां तक ठीक है । हम यहां पर जनभावनाओं को रखते हुए आते है, यहां आ कर अपनी बात कहते है, उस के बाद कैबिनेट डिसीजन लेती है और फिर राष्ट्रपति, गवर्नर या प्रशासक कोई आर्डिनेन्स निकलता है, उस को कोर्ट में जा कर चेलेन्ज करना ठीक प्रथा नहीं थी । इस लिये आप अब जो कानून लायें है, यह बहुत ही जरूरी था, इस को सब-हाई कोर्ट्स ने माना है । क्रिमनल प्रासीजर कोड की दफ़ा 107 और 144 में भी एस० एच० ओ० अगर कोई एक्सन ले लेता है तो उस पर भी मैजिस्ट्रेट एक्शन लेता है, तो जहां जन-

[श्री मूल चन्द डागा]

प्रतिनिधि होते हैं, लोकतान्त्रिक सरकार होती है और सरकार कोई कानून बनाती है, संकटकालीन स्थिति या आपातकालीन स्थिति की कोई घोषणा करती है तो उस को कोर्ट में चेलेन्ज कर दिया जाय, यह मुनासिब नहीं था, इस तरह के केसेज पहले बहुत हुए हैं। इस लिए यह कानून पहले ही आना चाहिए था। आप अब इस बिल को लाये हैं, ठीक है, इस में कोई झगड़ा नहीं है।

कुछ लोग समझते हैं कि इस में कोई नई बात आ गई है, लेकिन इस में नई बात कुछ नहीं है। सारी हाई कोर्ट्स ने इस को माना है। लेकिन इस में एक बात साफ़ रखी गई है—अब भी इस किस्म का कोई आर्डिनेन्स आता है तो उस पर पार्लियामेन्ट विचार करती है। पार्लियामेन्ट अगर समझती है कि वह आर्डिनेन्स ठीक नहीं है, तो उस को एप्रूव नहीं करती है, उस का अनुमोदन नहीं करती है। पार्लियामेंन्ट के बाद भ. संविधान में लिखा है कि यदि वह कानून बन जाय तो भ. —

"If and so far as an Ordinance under this Article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void."

यानी अगर वह कानून बन जाता है तो उस को भी कोर्ट में चेलेन्ज किया जा सकता है। लेकिन जो आर्टिक्लज़ यहां कोट किये गये हैं उन से साफ़ जाहिर है कि जन प्रतिनिधियों की बात को माना जाये अब कोई ऐसा जज हैं जो जनसंघ के दिमाग़ का है, साम्प्रदायिक ख्यालात का है तो वह सारे आर्डिनेन्स को खत्म कर सकता है। हम को एमरजेन्सी में काम करना है, उधर जज उस को रोक दे तो उस से तो सारा मामला ही ठप्प हो जायगा। इस लिए इस तरह का मेकर लेना बहुत ज़रूरी था।

आप जानते हैं हमारा संविधान 1950 में बना था—तब से हमने बहुत सी बातें सीखीं और अनुभव ही ऐसी चीज़ों को सिखाता है। हम को मालूम हुआ कि कुछ जज ऐसे होते हैं जो जैसा चाहें जजमेन्ट दे देते हैं। जज भी शोशल ह्यूमन बींग होते हैं उन के भी कुछ वेस्टेड इन्टरेस्ट हो सकते हैं, लेकिन हमें उन की बात को मानना पड़ता है। हम लोग जो जनता का प्रतिनिधित्व करते हैं, हम में से कैबिनेट बनती है, कोई प्राइम मिनिस्टर बनता है, कोई चीफ़ मिनिस्टर बनता है, कैबिनेट डिसीज़न लेती है; उस के निर्णय को अब तक चेलेन्ज किया जा सकता था, लेकिन अब नहीं किया जा सकेगा। यह हमारा अधिकार है, क्योंकि हम जनता का प्रतिनिधित्व करते हैं और जनता की बात को सामने रख कर काम करते हैं। इस लिए यह बिल बिलकुल ठीक है। मेरा तो यह भी कहना है कि संविधान में अभी भी कई चेन्जेज़ की ज़रूरत है, हम पीस-मील अमेण्डमेन्ट्स लाते हैं, सेक्शन 75 को देखिए, इस में काफ़ी चेन्जेज़ की ज़रूरत है, इस लिये तमाम चीज़ों पर गौर कर के हमें काफ़ी चेन्जेज़ करने चाहिए।

श्री बरबारा सिंह (होशियारपुर) : चेयरमैन सहाब, ला मिनिस्टर ने जो तरमीम रखी है मैं उस के पालिटिकल आस्पेक्ट के बारे में कहना चाहता हूं। वह एक निहायत अहम तरमिम है। मैं अदालतों के बारे में कुछ नहीं कहना चाहता। हमें उन पर पूरा कान्फ़ीडेंस है। यह एक मिसअन्डरस्टैंडिंग हो गई है कि हम अदालतों की पावर्स को करटेल करने जा रहे हैं। यह धारणा गलत है। हम उन की पावर्स को करटेल नहीं कर रहे हैं, बल्कि हम ने कहा है कि नये हालात को हमें देखना चाहिए। 27 साल में हिन्दुस्तान में बड़े परिवर्तन आये हैं, इस बीच में बहुत सी नई चीज आयी हैं। ऐजुकेशनल इंस्टीट्यूशन्स के सोचने और काम करने के ढंग में, बच्चों के सोचने और काम करने के ढंग से तबदीली आयी है। आज

अंग्रेजों का वक्त तो है नहीं जब कि वह स्टेटसको में यकीन करते थे और कोई चेंज किसी तरफ किसी भी तरह का नहीं करना चाहते थे। आज हम प्रोग्रेसिव तौर पर आगे बढ़ना चाहते हैं जिस के लिए चेंजिज लाना निहायत जरुरी है। जो हालात पहले थे वह आज नहीं रहे। हम बदलते हुए हालात के पेशेनजर आगे बढ़ना चाहते हैं।

मुझे याद है जब डा० गजेन्द्रगडकर, जो हमारे चीफ़ जस्टिस थे, उन्होंने एग्जीक्यूटिव और जुडिशियरी के सेपरेशन के बारे में कहा था कि दोनों को अलग अलग करना चाहिए। उस वक्त मैं पंजाब में होम मिनिस्टर था। उन्होंने कहा था कि हमारे जजेज को ध्यान रखना चाहिए अब हालात वह नही है जो पहले थे। आज जो शोशियो इकोनामिक चेंजेज आ रहे है वह पहले नहीं थे और उस के मुताबिक अपने दिमाग को ढालना चाहिए। जो लोग मुआलिफत करते है उन को पता चल जाएगा कि उन्होंने किस ढंग से कहा कि इस ढांचे को तबदील करना चाहिए। जो फैसले होते हैं, उन पर कोई ऐसपर्शन मैं कास्ट नही करना चाहता, मान लीजिये मेरा पोलिंग एजेन्ट कल को जज बन जाये तो उस का जो अंदाज है वह वही होगा जो पहले था। इसलिए उन को नोमिनेट करते वक्त ला मिनिस्टर साहब देखें कि आया वह प्रोग्रेसिव विचारों के हैं कि नही, बदलते हुए हालात के मुताबिक वह चलना चाहते है कि नहीं। पांच मैम्बरों की फ़ैमिली की डैफीनीशन क्या है इस के मुताल्लिक एक केस कोर्ट में पड़ा हुआ है, वह लागू नहीं हो सकती डैफ़ीनीशन क्योंकि जजेज का कहना है कि डेफ़ीनीशन सरकार नहीं मेंशन करेगी, बल्कि हम करेंगे। मैं इस बात को कहने में कतई नहीं झिझकता कि वहां भी वेस्टेड इंटरेस्टस हैं जो हमारे खिलाफ मुकदमे करते हैं।

एल०आई०सी० के मामले में जब जनरल इंश्योरेंस को हम नैशनेलाइज करना चाहते थे तो आप ने देखा कि वकीलों द्वारा क्या क्या आर्गूमेंट्स दिये गये। उन के पीछे क्या ताकतें थीं यह भी हमें मालूम है। यह एक जहन है जिस पर सारी बातों को तोला जाता है। वह पुराना जहन आज के माहौल के मुताबिक नहीं है। इसलिए यह जो संशोधन आया माकूल आया है। हम चाहते हैं कि सोशियो इकोनामिक रिवोल्यूशन आये, जो 21 पोइंट प्रोग्राम प्रधान मंत्री ने कहा है उस को असली शक्ल दी जाये। अगर किसी जगह कोई खराबी है तो उस को जरुर दूर किया जाए? लेकिन इस के साथ ही हमें यह भी देखना है कि जो पीसफुल नागरिक हैं उन पर कोई हाथ न डाला जाए, इस बात का पूरा इंतजाम होना चाहिए। जो अनडिजायरेबिल ऐलीमेंट है, जो ब्लैक मार्किटियर्स हैं स्मगलर्स हैं उन को सख्ती से डील किया जाय। आज उन के लिए खुली छूट थी, यह जानते हुए भी कि स्मगलर हैं वह हाई कोर्ट और सुप्रीम कोर्ट से छूट जाते थे और हिन्दुस्तान की इकोनामी को शैटर कर रहे थे। यह सी-सा का गैम बन्द होना चाहिए। अगर विरोधी दल के लोग सोशियो इकोनामिक चेंज लाना चाहते हैं तो जनता के सामने अपना प्रोग्राम रखें, जनता उस का फैसला करेगी। लेकिन बिना जनता का मैन्डेट लिये प्रोग्रेसिव मैजर्ज को स्टाल करने की जो कार्यवाही यहां विरोधी दलों द्वारा की जा रही थी, वह डैमोक्रेसी के खिलाफ जाता था। इसलिए हम डेमोक्रेसी को मजबूत करने के लिए यह तरकीब लाये हैं। जो बुराइयां समाज में हैं, और बुराइयां समाज में है, उन को दूर किया जाये। इसलिए मैं इस तरमीम का समर्थन करता हूं।

श्री चन्द्र भालमनी तिवारी (बलरामपुर): सभापति महोदय, विधि मंत्री ने 39 वां संशोधन विधेयक पेश कर के कोई नई चीज हमारे सामने नहीं रखी है। हमारे संविधान में कई जगहों पर और कई टाइमों में कुछ चेंजेज हुए हैं। कई प्रकार के चैलेंज हुए हैं उस की पुनरावृत्ति न हो इस के लिए हम को संशोधन करना पड़ा। संशोधन करना हमारा अधिकार है। सुप्रीम कोर्ट का अधिकार नहीं है। यह संशोधन इसलिए किया गया कि देश में जो

[श्री चन्द्रशेखर तिवारी]

कुल अराजकता, अनियन्त्रितायें फैल रही थीं उन पर पाबन्दी लगाना आवश्यक था। विरोधी दल के लोग जो हम से सहमत नहीं हैं उन्होंने इस को अच्छा नहीं माना और उन्होंने पार्लियामेन्ट का बायकाट किया। इस बात पर उन को शर्म आनी चाहिए कि डेमोक्रैटिक पैटर्न को वह चैलेंज करना चाहते हैं, बहुमत के निर्णय को स्वीकार नहीं करना चाहते। यह उन का दोष है। हम किसी का अधिकार नहीं ले रहे हैं, सुप्रीम कोर्ट का अधिकार नहीं ले रहे है, न जनता का अधिकार ले रहे है। बल्कि हम तो अधिकार दे रहे है। चेयरमैन साहब आप एक दफा प्रीसाइड कर रहे थे, आप को याद होगा कि श्री मधु लिमये ने क्या हरकत नहीं की। क्या वह शोभा देता है। अगर उस का हम दोहराते तो अच्छा नहीं था। इसलिए यह संशोधन लाया गया है।

25 तारीख को जो विरोधी दलों की मीटिंग थी, उस के बाद 29 तारीख से देश व्यापी सम्पूर्ण क्रांति का नारा लगाने के बाद वे कुछ करना चाहते थे। उन्होंने सेना और पुलिस को उकसाया। यह लोकतंत्र ढांचे के विपरीत था। लेकिन वह इस को नहीं मानते क्यों कि उन का स्वार्थ सिद्ध नहीं हो रहा था। लेकिन प्रधान मंत्री इस को कब तक देखती रहती। विरोधी दलों की कार्यवाही जब चरम-सीमा पर पहुंच गई तब प्रधान मंत्री को उस पर अंकुश लगाना पड़ा। इस अंकुश से फायदा हुआ है। बाजार में सारी चीजें उपलब्ध हैं, अराजक तत्व ठंडे पड़ गये हैं, और जो अपोजीशन के लीडर्स थे, जिन्हों ने इस स्थिति को पैदा किया था, वह भी आज ठंडे पड गये हैं। बुरे दिन कब आते हैं ? जब कोई बुरा काम करता है। लिहाजा जब इन्हों ने बुरा काम किया तो उन को यह सजा मिली। यह उन के लिए आवश्यक था।

मैं निवेदन करना चाहता हूं कि आज की स्थिति में यह एमेंडमेंट बहुत आवश्यक था और इसीलिए यह लाया गया है। इस बारे में मैं एक और चीज निवेदन करना चाहता हूं और वह यह है कि एमेंडमेंट, जैसा कि मैं ने पहले कहा, आवश्यकता पड़ने पर लाया जाता है और यह जो विरोधी दलों का कहना है कि एमेंडमेंट मुनासिब वक्त पर नहीं लाया गया और यह पहले होना चाहिए था, तो इस सम्बन्ध मे मैं यह कहूंगा कि देश का जो लीडर होता है, जो न्याय पक्ष होता है, उस को भी समय चाहिए और समय के अनुसार जब उन्होंने यह देखा कि इस बिल का लाना आवश्यक हो गया है, तो उस समय उन्होंने इस संशोधन विधेयक को पार्लियामेट मे रखा है।

इन शब्दों के साथ मैं इस संशोधन बिल का समर्थन करता हूं।

SHRI SHYAM SUNDER MOHAPATRA: Mr. Chairman, Sir, the entire country was probably waiting for a situation like this that India will pass through an emergency. I hope it will be a contmuouos emergency to strike at the very root of vested interests so that we can have a social transformation from a feudalistic economy to a socialistic economy.

In 1971, when the emergency was promulgated, I think we should have taken note of the fact that the power of the vested interests probably is much more than the power of the democratic forces and, some such situation should have been anticipated that time and the amendments should have been brought at that time so that to-day, we would not have taken Shri Jayaprakash Narayan and his hordes to the jail. They could have been curbed by the popular forces, by the popular resurgence in 1971 itself-better late than never.

It is always the satisfaction of the President, as head of the executive, whether the situation has arisen due to external forces or internal forces, that it warrants the state of emergency. Satisfaction is most important and that is why the amendment is:

"That the satisfaction shall be final and conclusive and shall not

be questioned in any court on any ground."

MR. CHAIRMAN, Sir, we cannot deny that there is a danger from external forces. After the Simla Accord, Pakistan's attitude has not changed. We have seen it; we have seen the activities of the C.I.A. in foreign countries as also their involvement in our own country. We have seen the weapons still going to Pakistan. The Chinese attitude has not changed at all. We know how the vested interests tried to create a situation in Sikkim. So, we cannot say that there is no danger from external forces and we all know how the internal vested interests in our country, were trying to subvert our liberty, our independence, our forces of progress. Shri Jayaprakash Narayan was only a symbol. I do not attach any importance to him. He is known for his negative attitude throughout his life. He has emerged only as a symbol of the vested interests in our country. The R.S.S., the Anand Margis, the C.P.M. or the communal forces here and there find in him the last resort of the scoundrels. Mr. Chairman, Sir, Shri Jayaprakash Narayan has gone to jail. But, the boys of Shri Jayaprakash Narayan are still outside to create a situation to subvert our liberty. So, it is absolutely correct that we are passing through a state of emergency now.

The people go to courts thinking that every type of robress is available there; thieves go to the court; dacoits go to the court; the daylight robbers go to the court and miscreants and smugglers go to the court thinking that the judiciary is above everything. One will realise that the responsibility lies with us, the politicians, of all political parties; the responsibility lies with those revolutionaries who want to create a new strata, new social revolution. Judiciary is only an offshoot of this revolution; it is only an offshoot of this legislative process and it cannot arrogate to itself the supreme powers to decide anything on this earth. That is why when the smugglers were released and when our young and dynamic Minister, Shri Pranabkumar Mukherjee was helpless, I was thinking whether there was any redress by which the smugglers would be debarred from going to court. And here is the amendment. These smugglers will not have now any refuge under the umbrella of judiciary.

Mr. Chairman, we are passing through a grave time. No country in the world which has commended socialism has passed through a stage of absolute democracy. It should be a restricted democracy. It should be a limited democracy. You cannot arrogate to yourself every kind of fundamental right that if you want to write anything you can write or if you want to speak anything you can speak or if you want to move anywhere with any kind of weapon you can move and there will be no restriction. Fundamental rights are not sacrosanct. It can also be challenged by the "general will". What is paramount is this legislature and the entire nation which is now being symbolised in the personality of Smt. Indira Gandhi is not closing its eyes to the realities.

MR. CHAIRMAN, I think that this amendment will go a long way to solve many problems hitherto unsolved. Socialism can be established by a type of regimentation; may be a limited regimentation. We have been thinking of bringing in ceiling on urban property and redress to the poor students but nothing could be done so far. The economic programme and the social transformation objective, all these are symbolised today in this amendment. I have every reason to believe, if need be, if we want to bring an egalitarian society or a change in the society, come what

[Mr. Chairman]

may, this emergency may take a long time. We may have a continued process of emergency so that vested interests will not be allowed to raise their heads.

SHRI K. NARAYANA RAO (Bobilli): Mr. Chairman, Sir, I am not going to elaborate on the question of subjective satisfaction as it has been ably and elaborately explained by the hon'ble Law Minister and Mrs. Maya Ray. I will only confine myself to what Mr. Daschowdhury has also referred to, namely, the proposed amendment to Article 359. This is an important amendment which is long overdue. This should have been brought soon after the Supreme Court decided the Makkan Lal case. As the Constitution stands today there is a slight distinction between Article 19 and other fundamental rights. During the emergency so far as Article 19 is concerned it cannot stand against any executive action. It ceases to be a restriction on the legislative and executive power. But that is not so in the case of other fundamental rights, namely, liberty and other religious rights. There, the distinction is these rights will remain but the remedies will be suspended. The Supreme Court had been confronted with this delicate situation in the Makkan Lal case and they said during the emergency the right of a citizen to move the court has been taken away but his substantive right remained so that when the emergency is over it is open to an ordinary citizen to go to a court of law and seek redress. If that is allowed it will be extremely difficult for the exchequer to cope up with the situation. In England there used to be Indemnity Act but this is not possible in India because here the rights involved are fundamental rights and they cannot be affected by an ordinary legislation by Parliament. Therefore, I humbly submit that this step should have been taken much earlier but nonetheless it is a very welcome step and it should be supported by all the Members.

My last submission is, I just wonder, whether time has not come when we have to sit up and think of bringing about a comprehensive review of the functioning of the Constitution which is overdue because each time some difficulty arises we have to come to Parliament for amendment. So, I suggest that it is time for us to have an overall look and review the entire functioning of the Constitution.

Therefore, for that purpose, I humbly submit that a committee may be appointed, not necessarily a parliamentary committee, but an expert committee, where Members of Parliament may also be there, apart from some jurists and judges, to see whether there are any changes required in the Constitution.

With these remarks, I welcome this Bill.

प्रो० नारायण चन्द पराशर (हमीरपुर): सभापति महोदय, विधि मंत्री द्वारा प्रस्तुत संविधान संशोधन बिल का मैं स्वागत एवं समर्थन करने के लिए खड़ा हुआ हूं ।

जैसा कि आपको मालूम है किसी भी देश की जनता अपने आप में सार्वभौम शक्ति रखती है और उसकी विचारधारा और उसकी इच्छा शक्ति प्रजातंत्र का मूल स्त्रोत है और उसी के अनुसार देश की शासन प्रणाली और संविधान की प्रक्रिया चलनी चाहिए । अतः राष्ट्रपति जी की संतुष्टि होने पर उनको यह अधिकार है कि वह संविधान की धारा 123 के अनुसार देश में आपातकालीन स्थिति की घोषणा कर सकें और उसको किसी भी न्यायालय में चुनौती न दी जा सके इसको ले कर जो संशोधन लाया गया है वह देश की जनता की भावनाओं का प्रतीक है । वास्तव में कोई बात अस्पष्टता की नहीं थी लेकिन फिर भी जो अस्पष्टता थी

उसका कोई भी व्यक्ति दुरुपयोग कर सकता था और उसका सहारा ले कर इस मामले को न्यायालय में ले जा कर एक ऐसी स्थिति पैदा कर सकता था जो कि खतरनाक हो सकती थी और इसलिए यह जरूरी समझा गया कि संविधान की धारा 123 का संशोधन किया जाए। यह सारे देश पर लागू होती है। उसी प्रकार प्रांतों के लिए धारा 213 और केन्द्रीय शासित प्रदेशों के लिए धारा 239 (बी) जो है इनका भी संशोधन इसी के अनुसार किया जा रहा है। मैं इन संशोधनों का स्वागत करता हूं।

साथ ही जो मेरे एक माननीय मित्र ने सुझाव दिया है उसका भी मैं समर्थन करता हूं। उन्होंने कहा है कि समय आ गया है कि हम सारे संविधान पर पुनर्विचार करें और एक एक धारा या दो दो धाराओं का संशोधन करते रहने के बजाय या 39वें एमे मेंट में जिस में सात धाराओं का संशोधन किया जा रहा है, पर विचार करने के बजाय इस पर विचार करें कि पूरे संविधान में किन किन संशोधनों की आवश्यकता है, उसमें कौन कौन सी त्रुटियां हैं और जो अनुभव हमें आज तक प्राप्त हुए हैं उनको देखते हुए और कौन-कौन से संशोधन करने की आवश्यकता है, उन सब को एक साथ लाया जाए और उनको करवाया जाए। उन्होंने इसके लिए एक विशेषज्ञ समिति बनाने का सुझाव दिया है जिसका मैं स्वागत करता हूं। वह समिति उन अनुभवों को देखें जो पिछले पच्चीस सालों में हमारे सामने आए हैं, इसको देखें कि हमारा प्रजातंत्र किन चरणों में से हो कर गुजरा है, कौन कौन सी बाधायें उसके सामने उपस्थित हुई हैं और आगे क्या हो सकती हैं, क्या क्या हमारी उपलब्धियां रही हैं और उन सब उपलब्धियों, उन सब इच्छाओं, उन सब अनुभवों को एक नये ढंग से देखा जाय और युग की आत्मा के अनुकूल, जनता की इच्छाओं के अनुकूल और आज की आवश्यकताओं के अनुकूल जो और संशोधन आवश्यक हैं उनको वह सुझाए।

इन शब्दों के साथ सात धाराओं का जो संशोधन किया जा रहा है इसका मैं समर्थन करता हूं और इस हेतु जो बिल रखा गया है उसका स्वागत करता हूं।

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Mr. Chairman Sir, my task is very considerably lightened because of the speeches made by hon. Members on both the sides. Many of the points which would have been necessary to be elaborated are perhaps not so necessary to be done now.

14.54 hrs.

[SHRI VASANT SATHE *in the Chair*]

In my opening speech, I had pointed out and that has been repeated by several Members when they participated in the debate, that what we are really seeking to do by the present Bill by which several provisions of the Constitution are sought to be amended, is not anything which is intended or meant to be derogatory to the jurisdiction of the Supreme Court or any other Court in India.

In fact, with reference to articles which are the subject matter of the present Bill, they stand in a way on a different footing altogether. Articles 123, 213, 352, 360, 239B and last, though not the least, 359 all stand in a category by themselves. That is why even before the present Constitution came into force in respect of provisions ranging back to the Government of India Act 1915, the Government of India Act 1919 and ultimately the Government of India Act 1935 which preceded the Constitution, similar provisions had been construed by the then existing highest courts, namely the Federal Court and the Privy Council, to mean that matters which are essentially political in substance should not be matters of judicial scrutiny and, therefore, should be non-justiciable. There were provisions in those Acts also as to

[Shri H. R. Gokhale]

declaration of emergency and promulgation of ordinances in such emergencies. Questions were raised and were taken to the highest courts and the courts have consistently held that whether or not an emergency exists depends on the assessment or consideration of several factors which cannot possibly fall within the jurisdiction of the courts.

Now, take for example, the declaration of an emergency on the ground of threat of external aggression. It is only the Government which knows what is the real impending threat in respect of the integrity and security of the country. Could it ever be contemplated by any reasonable person that all such material which the Government has in respect of possible actions by foreign powers threatening the security of the country should be laid bare and kept open in public for the scrutiny of the courts? Because if that were done, it was the surest way of strengthening the hands of the enemy. In the very nature of things, these are matters which ought not to be in the public gaze. As you know, courts in our country rightly work in the public gaze; they do not work *in camera*. Courts do not have the power to have material which only they can look into and which will not be available to the contending parties before the courts. When once a matter is taken before the court for its decision as to whether a certain emergency declared is rightly or wrongly declared. Therefore, in the very nature of things these are matters which are not matters for judicial scrutiny but which are matters which have to be left, which are inherently of such a nature that they have to be left, to the discretion and decision of the executive in a democratic country which is elected by the support of the electorate in duly held elections.

The same is the case in respect of an emergency declared relating to threatened internal disturbance either in the whole of India or in any part thereof. The best safeguard which is provided in respect of declaration of emergency is already there; it has not been taken away by any of these amendments. It is that such a declaration of emergency must have parliamentary support. It must come before Parliament within the period specified, namely, two months, not more than two months. What more safeguard in respect of such political declarations of emergency can be there than the support of the people who have been duly elected by the electorate in this country?

Now there are many things the Prime Minister has spoken of and Shri Jagjivan Ram has spoken of. I am quite sure that matters to the extent it was proper to lay before the public to justify the emergency have been laid before them. But there could be matters which in the interest of the very security which is intended to be protected may not be possible to be so laid. Now if this is taken to the courts, it is just difficult to imagine what would be the consequences as to the intention of protecting the security of India either on the ground of external aggression or on the ground of safeguarding internal security. That is why the courts themselves as a matter of restraint which they have imposed on themselves in the exercise of their jurisdiction have consistently taken the view that these are matters which are not for judicial scrutiny.

15.00 hrs.

Courts accordingly, I imagine, would rightly realise that if they were put to this task of scrutinising the material which, if disclosed, would defeat the very purpose for which the emergency was declared, namely matters which ought not to be disclosed to the enemy and which, if disclosed, would strengthen the hands of the enemy. This is not the end which they would at any rate attempt to subserve by claiming jurisdiction

where it did not exist. That explains the consistency of the view taken by the courts in respect of the justiciability of proclamations under article 352. So many other articles are there in the amendment but substantially they are all of the same nature. In respect of proclamation of ordinances when Parliament is in recess, there are restrictions in that article. When the President or the Governor is satisfied that emergent or urgent action is necessary and it is not possible to wait until Parliament is summoned, the power to issue ordinances is given, subject to the restraint that it will have to be substituted within a specific period by a law passed by Parliament. The very nature of things in this article is such that they are on a field which is certainly not the judicial field.

Hon. Members who supported me said earlier, rightly that this amendment did not do anything new but it merely clarified, if any clarification was necessary, the existing legal position as to the powers of the court. One hon. Member said that till this amendment was brought, they had respect for the Government and for the Prime Minister and now that respect was lost. If the hon. Member had taken care, he would have seen that this was not the first time that certain matters were made non-justiciable in the Indian Constitution. Certain matters have been taken out of the purview of the court from the very inception, from the day the Consituation came into force. If I were to refer to all those matters, it will take a considerable time. But I can tell you that there are at least 18 articles of the Constitution in that category. By the very nature of the subject matter dealt with in those articles, they were not subject matters before judicial scrutiny. Even in respect of economic matters, what is the position? Soon after Independence, in 1951 and 1952, we had new articles like 31A. Why? Because it was found that on account of justiciability, major economic reforms like abolition of zamindari and so on were set at naught, not deliberately by the courts but because of the fact that the articles that were there gave rise to the intepretation that they were justiciable. Nobody ever complained that the amendments which were made were not properly made because they encroached on the powers of the court. Therefore, I want to refute the allegation made by one or rather only one hon. Member that it is an attempt to encroach on the jurisdiction of the court or to take away the rights of the judiciary. One important and relevant point was made by my senior colleague who was a distinguished predecessor, former law Minister, Mr. Manumanthaiya. It is a recognised principle in jurisprudence in a Constitution like ours where we have separation of powers, namely, judiciary, executive and the legislature, all proceed on the basis that the three must function in their respective fields. One should not encroach on the other or *vice versa*.

Now to the extent to which the powers were not meant for judicial scrutiny and if they are not left for judicial scrutiny, I think it is absolutely wrong to say that this is an attempt to take away the judicial power of the free structure of federal Constitution of India. Sir, many other things have been said and I do not think any clarification is necessary because they virtually supported the basic concept which I have mentioned in my opening speech. I entirely agree with my hon. friend, Shri S. M. Banerjee, who spoke that ultimately power is vested; it is a power which is not vested for abuse, it is not vested for misuse and no one can ever say that abuse of power is tolerated and that is why Babuji, when he spoke this morning and even earlier also, had categorically stated that in a vast country like India when power is exercised at different levels—I do not mean to say that the abuse of power on a fractional basis here and there can be altogether ruled out—all that the Government has to take care about is that this does not happen and adequate precautions are taken to see that the

[Shri H. R. Gokhale]

powers which are given in an emergency situation are not abused and that adequate checks and counter checks, balance and counter balance are placed on these powers so that it does not lead to misuse. It was also said that the Government has taken advantage of the Proclamation of the Emergency for bringing this Constitutional Amendment. It is a simple thing to know that for bringing this amendment, declaration of emergency was not necessary at all. It is not like passing, for example D.I.R., M.I.S.A. or such other measure which could only be legislations that could be approved in an emergency situation, resulting out of the declaration of emergency. Power to amend the Constitution is plenary as I have repeatedly stated, and therefore to say that because we have declared emergency we are now moving this amendment is, to say the least, a clear misconception of the power to amend the Constitution. I do not think that any further elaboration is necessary. I am grateful to all the hon. Members for the support that they have extended to this amending Bill and I move that the Bill be taken into consideration.

MR. CHAIRMAN: Now, before I put the question for consideration of the House—this being the Constitution Amendment Bill—I would say that voting will take place by division. Now let the lobbies be cleared.

The lobbies have been cleared.

The question is:

"That the Bill further to amend the Constitution of India be taken into consideration."

The Lok Sabha divided.

[15.15 hrs.

Division No. 5]

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Ambesh, Shri
Anand Singh, Shri
Ankineedu, Shri Maganti
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerji, Shrimati Mukul
Barman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H.K.L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyyia, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D. B.
Chandrakar, Shri Chandulal
Chandrashekharappa Veerabasappa, Shri T. V.
Chandrika Prasad, Shri
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh

Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhotey Lal, Shri
Chikkalingaiah, Shri K.
Choudhury, Shri Moinul Haque
Daga, Shri M. C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Desai, Shri D. D.
Deshmukh, Shri K. G.
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K. R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Gautam, Shri C. D.
Gavit, Shri T. H.
Ghosh, Shri P. K.
Gill, Shri Mohinder Singh
Giri, Shri S. B.
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale, Shri H. R.
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra
Gotkhinde, Shri Annasaheb
Gowda, Shri Pampan
Gupta, Shri Indrajit
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Kishore Singh, Shri
Hari Singh, Shri
Hashim, Shri M. M.
Ishaque, Shri A. K. M.
Ismail Hossain Khan, Shri
Jadeja, Shri D. P.
Jaffer Sharief, Shri C. K.
Jagjivan Ram, Shri
Jamilurrahman, Shri M.
Jeyalakshmi, Shrimati V.
Jha, Shri Chiranjib
Jharkhande Rai, Shri
Jitendra Prasad, Shri
Joshi, Shri Popatlal M.
Joshi, Shrimati Subhadra
Kadam, Shri Dattajirao
Kadam, Shri J. G.
Kadannappalli, Shri Ramachandran
Kader, Shri S. A.
Kahandole, Shri Z. M.
Kailas, Dr.
Kakodkar, Shri Purushottam
Kakoti, Shri Robin
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri N. S.
Kamble, Shri T. D.
Kamla Kumari, Kumari
Kapur, Shri Sat Pal
Karan Singh, Dr.
Kasture, Shri A. S.
Kathamuthu, Shri M.
Kaul, Shrimati Sheila

Kavde, Shri B. R.
Kedar Nath Singh, Shri
Khadilkar, Shri R. K.
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kotrashetti, Shri A. K.
Koya, Shri C. H. Mohamed
Krishnan, Shri G. Y.
Krishnan, Shrimati Parvathi
Krishnappa, Shri M. B.
Kulkarni, Shri Raja
Kureel, Shri B. N.
Kushok Bakula, Shri
Lakkappa, Shri K.
Lakshminarayanan, Shri M. R.
Lambodar Baliyar, Shri
Laskar, Shri Nihar
Lutfal Haque, Shri
'Madhukar' Shri K. M.
Mahajan, Shri Vikram
Mahajan, Shri Y. S.
Maharaj Singh, Shri
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Malaviya, Shri K. D.
Malhotra, Shri Inder J.
Mallanna, Shri K.
Mallikarjun, Shri
Mandal, Shri Jagdish Narain
Mandal, Shri Yamuna Prasad
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Maurya, Shri B. P.
Mehta, Dr. Jivraj
Mehta Dr. Mahipatray
Melkote, Dr. G. S.
Mirdha, Shri Nathu Ram
Mishra, Shri G. S.
Modi, Shri Shrikishan
Mohammad Tahir, Shri
Mohammad Yusuf, Shri
Mohan Swarup, Shri
Mohsin, Shri F. H.
Muhammed Khuda Bukhsh, Shri
Munsi, Shri Priya Ranjan Das
Murmu, Shri Yogesh Chandra
Muruganantham, Shri S. A.
Nahata, Shri Amrit
Naik, Shri B. V.
Nanda, Shri G. L.
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon, Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R. S.
Pandey, Shri Sarjoo
Pandey, Shri Sudhakar
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C.
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Parikh, Shri Rasiklal
Parthasarathy, Shri P.
Paswan, Shri Ram Bhagat
Patel, Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R.
Patil, Shri Anantrao
Patil, Shri C. A.
Patil, Shri E. V. Vikhe
Patil, Shri Krishnarao
Patil, Shri S. B.
Patil, Shri T. A.
Patnaik Shri Banamali
Patnaik Shri J. B.
Peje, Shri S. L.

Pradhan, Shri Dhan Shah
Pradhani, Shri K.
Purty, Shri M. S.
Qureshi, Shri Mohd. Shafi
Raghu Ramaiah, Shri K.
Rai, Shrimati Sahodrabai
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram, Shri Tulmohan
Ram Dayal, Shri
Ram Prakash, Shri
Ram Sewak, Ch.
Ram Singh Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramji Ram, Shri
Ramshekhar Prasad Singh, Shri
Rao, Shrimati B. Radhabai A.
Rao, Shri J Rameshwar
Rao, Shri Jagannath
Rao, Dr. K. L.
Rao, Shri K Narayana
Rao, Shri M. S. Sanjeevi
Rao, Shri M. Satyanarayan
Rao, Shri Nageswara
Rao, Shri P. Ankineedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R Varadaraja
Raut, Shri Bhola
Ravi, Shri Vayalar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K. Ramakrishna
Reddy, Shri M. Ram Gopal
Reddy, Shri P. Bayapa
Reddy, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram
Reddy, Shri Y. Eswara
Richhariya, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Sadhu Ram, Shri
Saini, Shri Mulki Raj
Samanta, Shri S. C.
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sangliana, Shri
Sankata Prasad, Dr.
Sant Bux Singh, Shri
Sarkar, Shri Sakti Kumar
Satish Chandra, Shri
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Savant, Shri Shankerrao
Savitri Shyam, Shrimati
Sayeed, Shri P. M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shafquat Jung, Shri
Shahnawaz Khan, Shri
Shailani, Shri Chandra
Shambhu Nath, Shri
Shankar Dayal Singh, Shri
Shankar Dev, Shri
Shankaranand, Shri B.
Sharma, Shri A. P.
Sharma Dr. H. P
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shanker Dayal
Shashi Bhushan, Shri
Shastri, Shri Biswanarayan
Shastri, Shri Raja Ram
Shistri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivnath Singh, Shri
Shukla, Shri B. R.
Shukla, Shri Vidya Charan
Siddayya, Shri S. M.

Siddheshwar Prasad, Prof.

Singh, Shri Vishwanath Pratap

Sinha, Shri Dharam Bir

Sinha, Shri R. K.

Sohan Lal, Shri T.

Sokhi, Sardar Swaran Singh

Stephen, Shri C. M.

Subramaniam, Shri C.

Sundarsanam, Shri M.

Sunder Lal, Shri

Suryanarayana, Shri K.

Swaminathan, Shri R. V.

Swamy, Shri Sidrameshwar

Swaran Singh, Shri

Tarodekar, Shri V. B.

Tayyab Hussain, Shri

Tewari, Shri Shankar

Thakre, Shri S. B.

Thakur, Shri Krishnarao

Tiwari, Shri Chandra Bhal Mani

Tiwari, Shri R. G.

Tiwary, Shri D. N

Tombi Singh, Shri N.

Tulsiram, Shri V.

Uikey, Shri M. G.

Unnikrishnan, Shri K. P.

Vekaria, Shri

Verma, Shri Balgovind

Vidyalankar, Shri Amarnath

Vijay Pal Singh, Shri

Vikal, Shri Ram Chandra

Virbhadra Singh, Shri

Yadav, Shri Chandrajit

Yadav, Shri D. P.

Yadav, Shri Karan Singh

Yadav, Shri R. P.

Zulfiquar Ali Khan, Shri

NOES

Shamim, Shri S. A.

MR. CHAIRMAN: The result* of the division is *Ayes*: 340; *Noes*: 1

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted

MR CHAIRMAN: We shall now take up clause-by-clause consideration. Since there are no amendments, I shall put clauses 2 to 8 together. The question is:

"That clauses 2 to 8 stand part of the Bill"

The doors are closed Do you want the lobbies to be cleared?

HON MEMBERS: No.

MR CHAIRMAN: Division.

The Lok Sabha Divided:

Division No. 6] [15.18 hrs.

AYES

Achal Singh, Shri

Aga, Shri Syed Ahmed

Agrawal, Shri Shrikrishna

Ahirwar, Shri Nathu Ram

A'agesan, Shri O. V.

Ambesh, Shri

Anand Singh, Shri

*The following Members also recorded their votes for AYES:

Sarvashri Umed Singh Rathia, Prabodh Chandra, N. Shivappa and Genda Singh.

Ankineedu, Shri Maganti
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerji, Shrimati Mukul
Barman, Shri R N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari. Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyyia, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D. B
Chandrakar, Shri Chandulal
Chandrashekharappa Veerabasappa, Shri T. V.
Chandrika Prasad, Shri
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhutten Lal, Shri
Chikkalingaiah, Shri K.
Chaudhury, Shri Moimuul Haque
Daga, Shri M. C
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Desai, Shri D. D.
Deshmukh, Shri K. G.
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Gautam, Shri C. D.
Gavit, Shri T. H
Ghosh, Shri P. K
Gill, Shri Mohinder Singh
Giri, Shri S. B.
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale, Shri H. R.
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra

Gotkhinde, Shri Annasaheb
Gowda, Shri Pampan
Gupta, Shri Indrajit
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Kishore Singh, Shri
Hari Singh, Shri
Hashim, Shri M. M.
Ishaque, Shri A K. M.
Ismail Hossain Khan, Shri
Jadeja, Shri D. P.
Jaffer Sharief, Shri C. K.
Jagjivan Ram, Shri
Jamilurrahman, Shri Md.
Jeyalakshmi, Shrimati V.
Jha, Shri Chiranjib
Jharkhande Rai, Shri
Jitendra Prasad, Shri
Joshi, Shri Popatlal M
Joshi, Shrimati Subhadra
Kadam, Shri Dattajirao
Kadam Shri J. G
Kadannappalli, Shri Ramachandran
Kader, Shri S A.
Kahandole, Shri Z. M.
Kailas, Dr.
Kakodkar, Shri Purushottam
Kakoti, Shri Robin
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri N. S.
Kamble, Shri T. D.
Kamla Kumari, Kumari
Kapur, Shri Sat Pal
Karan Singh, Dr.
Kasture, Shri A. S.
Kathamuthu, Shri M.
Kaul, Shrimati Sheila
Kavde, Shri B. R.
Kedar Nath Singh, Shri
Khadilkar, Shri R. K.
Kinder Lal, Shri
Kisku, Shri A. K
Kotoki, Shri Liladhar
Kotrashetti, Shri A. K.
Krishnan, Shri G Y.
Krishnan, Shrimati Parvathi
Krishnappa, Shri M. V.
Kulkarni, Shri Raja
Kureel, Shri B. N
Kushok Bakula, Shri
Lakkappa, Shri K
Lakshminarayanan, Shri M. R
Lambodar Baliyar, Shri
Laskar, Shri Nihar
Lutfal Haque, Shri
'Madhukar', Shri K M.
Mahajan, Shri Vikram
Mahajan, Shri Y S
Maharaj Singh, Shri
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Malaviya, Shri K D.
Malhotra, Shri Inder J
Mallanna, Shri K
Mallikarjun, Shri
Mandal, Shri Jagdish Narain
Mandal, Shri Yamuna Prasad
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Maurya, Shri B. P
Mehta, Dr. Jivraj
Mehta, Dr. Mahipatray
Melkote, Dr. G. S.
Mirdha, Shri Nathu Ram
Mishra, Shri G. S.
Modi, Shri Shrikishan
Mohammad Tahir, Shri
Mohammad Yusuf, Shri
Mohan Swarup, Shri
Mohsin, Shri F. H
Muhammed Khuda Bukhsh, Shri
Munsi, Shri Priya Ranjan Das
Murmu, Shri Yogesh Chandra
Muruganantham, Shri S. A.

Nahata, Shri Amrit
Naik, Shri B. V.
Nanda, Shri G. L.
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon, Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R. S.
Pandey, Shri Sarjoo
Pandey, Shri Sudhakar
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Parikh, Shri Rasiklal
Parthasarathy, Shri P
Paswan Shri Ram Bhagat
Patel Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R
Patil, Shri Anantrao
Patil, Shri C. A
Patil, Shri E. V Vikhe
Patil, Shri Krishnarao
Patil, Shri S. B.
Patil, Shri T. A
Patnaik, Shri Banamali
Patnaik, Shri J. B.
Peje, Shri S. L.
Prabodh Chandra, Shri
Pradhan, Shri Dhan Shah
Pradhani, Shri K
Purty, Shri M. S.
Qureshi, Shri Mohd. Shafi

Raghu Ramaiah, Shri K.
Rai, Shrimati Sahodrabai
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram, Shri Tulmohan
Ram Dayal, Shri
Ram Prakash, Shri
Ram Sewak, Ch.
Ram Singh Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramji Ram, Shri
Ramshekhar Prasad Singh, Shri
Rao, Shrimati B Radhabai A.
Rao, Shri J. Rameshwar
Rao, Shri Jagannath
Rao, Dr. K. L.
Rao, Shri K. Narayana
Rao, Shri M. S. Sanjeevi
Rao, Shri M. Satyanarayan
Rao, Shri Nageswara
Rao, Shri P. Ankineedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R Varadaraja
Rathia, Shri Umed Singh
Raut, Shri Bhola
Ravi, Shri Vayalar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K. Ramakrishna
Reddy, Shri M. Ram Gopal
Reddy, Shri P. Bayapa
Reddy, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram
Reddy, Shri Y Eswara
Richhariya, Dr Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh Shri
Sadhu Ram, Shri

Saini, Shri Mulki Raj
Samanta, Shri S. C
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sangliana, Shri
Sankata Prasad, Dr.
Sant Bux Singh, Shri
Sarkar, Shri Sakti Kumar
Satish Chandra, Shri
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Savant, Shri Shankerrao
Savitri Shyam, Shrimati
Sayeed, Shri P. M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shafquat Jung, Shri
Shanawaz Khan, Shri
Shailani, Shri Chandra
Shambhu Nath, Shri
Shankar Dayal Singh, Shri
Shankar Dev, Shri
Shankaranand, Shri B.
Sharma, Shri A. P
Sharma, Dr. H. P.
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shankar Dayal
Sashi Bhushan, Shri
Shastri, Shri Biswanarayan
Shastri, Shri Raja Ram
Shastri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivappa, Shri N.
Shivnath Singh, Shri
Shukla, Shri B. R.
Shukla, Shri Vidya Charan
Sidayya, Shri S. M.
Siddheshwar Prasad, Prof.
Singh, Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri R. K.
Sohan Lal, Shri T.
Sokhi, Sardar Swaran Singh
Stephen, Shri C. M.
Subramaniam, Shri C.
Sudarasanam, Shri M.
Sunder Lal, Shri
Suryanarayana, Shri K.
Swaminathan, Shri R. V.
Swamy, Shri Sidrameshwar
Swaran Singh Shri
Tarodekar, Shri V. B.
Tayyab Hussain, Shri
Tewari, Shri Shankar
Thakre, Shri S. B.
Thakur, Shri Krishnarao
Tiwari, Shri Chandra Bhal Mani
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tobmi Singh, Shri N.
Tombi Singh, Shri N.
Uikey, Shri M. G.
Unnikrishnan, Shri K. P.
Vekaria, Shri
Verma, Shri Balgovind
Vidyalankar, Shri Amarnath
Vijay Pal Singh, Shri
Vikal, Shri Ram Chandra
Virbhadra Singh, Shri
Yadav, Shri Chandrajit
Yadav, Shri D. P.
Yadav, Shri Karan Singh
Yadav, Shri R. P.
Zulfiquar Ali Khan, Shri

NOES

Shamim, Shri S. A.

MR. CHAIRMAN: The result* of the division is *Ayes* : 341; *Noes:* 1

*Shri Madho Ram Sharma also recorded his vote for AYES.
The result of this division is applicable to each of the clause 2 to 8 separately.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

Clause 1 (Short title).

SHRI H. R. GOKHALE I beg to move:

'Page 1, line 3,—

for "(Thirty-ninth Amendment)"

substitute "(Thirty-eighth Amendment)' (1).

MR. CHAIRMAN: The question is:

'Page 1, line 3,—

for "(Thirty-ninth Amendment)"

substitute "(Thirty-eighth Amendment)' (1).

MR. CHAIRMAN: The question is:

'Page 1, line 3,—

for "(Thirty-ninth Amendment)"

substitute "(Thirty-eight Amendment)' (1)

The Lok Sabha divided.

Division No. 7] **[15.20 hrs.**

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Alagesan, Shri O. V.
Ambesh, Shri
Anand Singh, Shri
Ankineedu, Shri Maganti
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishniah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerji, Shrimati Mukul
Barman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyyia, Shri Chapalendu
Bheshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri
Chandra Gowda, Shri D. B.
Chandrakar, Shri Chandulal
Chandrashekharappa Veerabasappa, Shri T. V.
Chandrika Prasad, Shri
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhutten Lal, Shri
Chikkalingaiah, Shri K.
Choudhury, Shri Moinul Haque
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R.
Darbara Singh, Shri
Das, Shri Anadi Charan
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh

Desai, Shri D. D.
Deshmukh, Shri K. G
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K R.
Gangadeb, Shri P
Gautam, Shri C D.
Gavit, Shri T H.
Ghosh, Shri P. K
Gill, Shri Mohinder Singh
Giri, Shri S. B
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale, Shri H R.
Gomango, Shri Giridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra
Gotkhinde, Shri Annasaheb
Gowda, Shri Panpan
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Singh, Shr
Hashim, Shri M M
Ishaque Shri A K. M
Ismail Hossain Khan, Shri
Jaffer Sharief, Shri C. K.
Jagjivan Ram, Shri
Jamilurrahman, Shri Md.
Jeyalakshmi Shrimati V.
Jha, Shri Chiranjib
Jitendra Prasad, Shri

Joshi, Shri Popatlal M.
Joshi, Shrimati Subhadra
Kadam, Shri Dattajirao
Kadam, Shri J. G.
Kader, Shri S. A.
Kahandole, Shri Z. M.
Kailas, Dr.
Kakodkar, Shri Purushottam
Kakoti, Shri Robin
Kale, Shri
Kamala Prasad, Shri
Kamble, Shri N S
Kamla Kumari, Kumari
Kapur, Shri Sat Pal
Karan Singh, Dr.
Kasture, Shri A. S
Kathamuthu, Shri M
Kaul, Shrimati Sheila
Kavde, Shri B R
Kedar Nath Singh Shri
Khadilkar, Shri R K
Kinder Lal, Shri
Kisku Shri A K
Kotoki, Shri Lila dhar
Kotrashetti, Shri A. K
Krishnan, Shri G Y
Krishnan Shrimati Parvathi
Kushok Bakula, Shri
Lakkappa, Shri K
Lambodar Baliyar Shri
Laskar, Shri Nihar
Lutfal Haque, Shri
'Madhukar', Shri K M.
Mahajan, Shri Vikram
Mahajan, Shri Y S
Maharaj Singh, Shri
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Malaviya, Shri K D.
Malhotra, Shri Inder J.
Mallanna, Shri K
Mallikarjun, Shri

Mandal, Shri Jagdish Narain
Mandal, Shri Yamuna Prasad
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Maurya, Shri B P
Mehta, Dr. Jivraj
Mehta, Dr. Mahipatray
Melkote, Dr. G. S
Mirdha, Shri Nathu Ram
Mishra, Shri G S
Modi, Shri Shrikishan
Mohammad Tahir, Shri
Mohammad Yusuf, Shri
Mohapatra, Shri Shyam Sunder
Mohsin, Shri F. H
Muhammed Khuda Bukhsh, Shri
Munsi, Shri Priya Ranjan Das
Murmu, Shri Yogesh Chandra
Muruganantham, Shri S A.
Nahata, Shri Amrit
Naik Shri B V
Nanda, Shri G L
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R. S
Pandey, Shri Sarjoo
Pandey, Shri Sudhakar
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Parikh, Shri Rasiklal
Parthasarathy, Shri P.
Paswan, Shri Ram Bhagat
Patel, Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R
Patil Shri Anantrao
Patil Shri C. A.
Patil, Shri E. V. Vikhe
Patil Shri Krishnarao
Patil, Shri S. B
Patil, Shri T. A
Patnaik Shri Banamali
Patnaik Shri J B
Peje, Shri S. L.
Prabodh Chandra, Shri
Pradhan Shri Dhan Shah
Pradhani, Shri K
Purty, Shri M S
Qureshi, Shri Mohd. Shafi
Raghu Ramaiah, Shri K
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram, Shri Tulmohan
Ram Dayal, Shri
Ram Prakash, Shri
Ram Sewak, Ch.
Ram Singh, Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramji Ram Shri
Ramshekhar Prasad Singh, Shri
Rao, Shrimati B Radhabai A
Rao, Shri J. Rameshwar
Rao, Shri Jagannath
Rao, Dr. K. L.
Rao, Shri K. Narayana
Rao, Shri M. S. Sanjeevi
Rao, Shri Nageswara
Rao, Shri P. Ankineedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R. Varadaraja
Rathia, Shri Umed Singh

Raut, Shri Bhola
Ravi, Shri Vayalar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K. Ramakrishna
Reddy, Shri P. Bayapa
Reddy, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram
Reddy, Shri Y. Eswara
Richhariya, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Sadhu Ram, Shri
Saini, Shri Mulk Raj
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sangliana, Shri
Sant Bux Singh, Shri
Sarkar, Shri Sakti Kumar
Satish Chandra,, Shri
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Sayeed, Shri P. M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shafquat Jung, Shri
Shahnawaz Khan, Shri
Shailani, Shri Chandra
Shambhu Nath, Shri
Shankar Dayal Singh, Shri
Shankar Dev, Shri
Shankaranand, Shri B.
Sharma, Shri A. P.
Sharma, Dr. H. P
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shanker Dayal
Shashi Bhushan, Shri
Shastri, Shri Biswanarayan
Shastri, Shri Raja Ram
Shastri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivappa, Shri N.
Shivnath Singh, Shri
Shukla, Shri B. R.
Shukla, Shri Vidya Charan
Siddayya, Shri S. M.
Siddheshwar Prasad, Prof.
Singh, Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri R. K.
Sohan Lal, Shri T.
Sokhi, Sardar Swaran Singh
Stephen, Shri C. M.
Subramaniam, Shri C.
Sudarsanam, Shri M.
Sunder Lal, Shri
Suryanarayana, Shri K.
Swaran Singh, Shri
Tarodekar, Shri V. B.
Tayyab Hussain, Shri
Tewari, Shri Shankar
Thakre, Shri S. B.
Thakur, Shri Krishnarao
Tiwari, Shri Chandra Bhal Mani
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tulsiram, Shri V.
Uikey, Shri M. G.
Vekaria, Shri
Verma, Shri Balgovind
Vidyalankar, Shri Amarnath
Vijay Pal Singh, Shri
Vikal, Shri Ram Chandra
Virbhadra Singh, Shri
Yadav, Shri Chandrajit
Yadav, Shri D. P.
Yadav, Shri Karan Singh
Yadav, Shri R. P.
Zulfiquar Ali Khan, Shri

NOES

*Lakshminarayanan, Shri M. R.
Shamim, Shri S. A.

MR. CHAIRMAN: The result ** of the division is:

Ayes: 315; *Noes*: 2.

The motion was adopted

MR. CHAIRMAN: The question is:

"That Clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, was amended, was added to the Bill.

MR. CHAIRMAN: The question is.

"That the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

The Enacting Formula and the Title were addtd to the Bill.

SHRI H. R. GOKHALE: I beg to move:

"That the Bill as amended be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The Lok Sabha divided:

Division No. 8) [15.24 hrs.

AYES

Achal Singh, Shri
Aga, Shri Syed Ahmed
Agrawal, Shri Shrikrishna
Ahirwar, Shri Nathu Ram
Alagesan, Shri O. V.
Ambesh, Shri
Anand Singh, Shri
Ankineedu, Shri Maganti
Ansari, Shri Ziaur Rahman
Appalanaidu, Shri
Arvind Netam, Shri
Austin, Dr. Henry
Awdhesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Aziz Imam, Shri
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Balakrishnaiah, Shri T.
Banamali Babu, Shri
Banerjee, Shri S. M.
Banerji, Shrimati Mukul
Barman, Shri R. N.
Barua, Shri Bedabrata
Barupal, Shri Panna Lal
Basappa, Shri K.
Basumatari, Shri D.
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhagat, Shri H. K. L.
Bhargava, Shri Basheshwar Nath
Bhatia, Shri Raghunandan Lal
Bhattacharyyia, Shri Chapalendu
Bheeshmadev, Shri M.
Bhuvarahan, Shri G.
Bist, Shri Narendra Singh
Brahmanandji, Shri Swami
Brij Raj Singh-Kotah, Shri
Buta Singh, Shri
Chakleshwar Singh, Shri

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*Wrongly votes for NOES.

**The following Members also recorded their votes for AYES:

Sarvashri M. Ram Gopal Reddy, K. P. Unnikrishnan, M. V. Krishnappa, Dr. Sankata Prasad, Shankerrao Savant, Ramachandran Kadannappalli, N. Tombi Singh, D. Kamakshaiah, Jharkhande Rai, M. R. Lakshminarayanan and Shrimati Sahodravai Rai.

Chandra Gowda, Shri D. B.
Chandrakar, Shri Chandulal
Chandrashekharappa Veerabasappa, Shri T. V.
Chandrika Prasad, Shri
Chaturvedi, Shri Rohan Lal
Chaudhari, Shri Amarsinh
Chaudhary, Shri Nitiraj Singh
Chavan, Shrimati Premalabai
Chavan, Shri Yeshwantrao
Chellachami, Shri A. M.
Chhotey Lal, Shri
Chhutten Lal, Shri
Chikkalingaiah, Shri K.
Choudhury, Shri Moinul Haque
Daga, Shri M. C.
Dalbir Singh, Shri
Dalip Singh, Shri
Damani, Shri S. R
Darbara Singh, Shri
Das, Shri Anadi Charan
Das, Shri Dharnidhar
Dasappa, Shri Tulsidas
Daschowdhury, Shri B. K.
Deo, Shri S. N. Singh
Desai, Shri D. D.
Deshmukh, Shri K. G.
Dhamankar, Shri
Dharamgaj Singh, Shri
Dhusia, Shri Anant Prasad
Dinesh Singh, Shri
Dixit, Shri G. C.
Dixit, Shri Jagdish Chandra
Doda, Shri Hiralal
Dube, Shri J. P.
Dumada, Shri L. K.
Dwivedi, Shri Nageshwar
Engti, Shri Biren
Gaekwad, Shri Fatesinghrao
Ganesh, Shri K. R.
Ganga Devi, Shrimati
Gangadeb, Shri P.
Gautam, Shri C. D.
Gavit, Shri T. R.

Ghosh, Shri P. K.
Gill, Shri Mohinder Singh
Giri, Shri S. B.
Giri, Shri V. Shanker
Godara, Shri Mani Ram
Gogoi, Shri Tarun
Gokhale Shri H. R.
Gomango, Shri Gridhar
Gopal, Shri K.
Goswami, Shri Dinesh Chandra
Gotkhinde, Shri Annasaheb
Gowda, Shri Pampan
Gupta, Shri Indrajit
Hansda, Shri Subodh
Hanumanthaiya, Shri K.
Hari Kishore Singh Shri
Hari Singh, Shri
Ishaque, Shri A K M
Ismail Hossain Khan, Shri
Jadeja, Shri D P
Jaffer Sharief Shri C I.
Jagjivan Ram, Shri
Jamilurrahman, Shri Mu
Jeyalakshmi, Shrimati V
Jha, Shri Chiranjib
Jharkhande Rai, Shri
Jitendra Prasad, Shri
Joshi, Shri Popatlal M
Joshi, Shrimati Subhadra
Kadam, Shri Dattarao
Kadam, Shri J. G.
Kadannappalli, Shri Ramachandran
Kader, Shri S A.
Kahandole, Shri Z M
Kailas, Dr
Kakodkar, Shri Purushottam
Kakoti, Shri Robin
Kale, Shri
Kamakshaiah, Shri D.
Kamala Prasad, Shri
Kamble, Shri N. S
Kamble, Shri T. D

Kapur, Shri Sat Pal
Karan Singh, Dr.
Kasture, Shri A. S.
Kathamuthu, Shri M.
Kaul, Shrimati Sheila
Kavde, Shri B. R.
Kedar Nath Singh, Shri
Khadilkar, Shri R. K
Kinder Lal, Shri
Kisku, Shri A. K.
Kotoki, Shri Liladhar
Kotrashetti, Shri A. K.
Koya, Shri C. H. Mohamed
Krishnan, Shri G. Y.
Krishnan, Shrimati Parvathi
Krishnappa, Shri M. V.
Kulkarni, Shri Raja
Kureel, Shri B. N.
Kushok Bakula, Shri
Lakkappa, Shri K.
Lakshminarayanan, Shri M. R.
Lambodar Baliyar, Shri
Laskar, Shri Nihar
Lutfal Haque, Shri
'Madhukar', Shri K. M.
Mahajan, Shri Vikram
Mahajan, Shri Y. S.
Maharaj Singh, Shri
Majhi, Shri Gajadhar
Majhi, Shri Kumar
Malaviya, Shri K. D.
Malhotra, Shri Inder J
Mallama, Shri K.
Mallikarjun, Shri
Mandal, Shri Jagdish Narain
Mandal, Shri Yamuna Prasad
Manhar, Shri Bhagatram
Manjhi, Shri Bhola
Maurya, Shri B. P.
Mehta, Dr. Jivraj
Mehta, Dr. Mahipatray
Melkote, Dr. G. S.
Mirda, Shri Nathu Ram
Mishra, Shri G. S.
Modi, Shri Shrikrishan
Mohammad Tahir, Shri
Mohammad Yusuf, Shri
Mohan Swarup, Shri
Mohapatra, Shri Shyam Sunder
Mohsin, Shri F. H.
Muhammed Khuda Bukhsh, Shri
Munsi, Shri Priya Ranjan Das
Murmu, Shri Yogesh Chandra
Muruganantham, Shri S. A.
Nahata, Shri Amrit
Naik, Shri B. V.
Nanda, Shri G. L.
Negi, Shri Pratap Singh
Nimbalkar, Shri
Oraon, Shri Kartik
Oraon, Shri Tuna
Pahadia, Shri Jagannath
Painuli, Shri Paripoornanand
Palodkar, Shri Manikrao
Pandey, Shri Damodar
Pandey, Shri Krishna Chandra
Pandey, Shri Narsingh Narain
Pandey, Shri R. S.
Pandey, Shri Sarjoo
Pandey, Shri Sudhakar
Pandey, Shri Tarkeshwar
Pandit, Shri S. T.
Panigrahi, Shri Chintamani
Pant, Shri K. C.
Paokai Haokip, Shri
Parashar, Prof. Narain Chand
Parikh, Shri Rasiklal
Parthasarathy, Shri P.
Paswan, Shri Ram Bhagat
Patel, Shri Arvind M.
Patel, Shri Natwarlal
Patel, Shri Prabhudas
Patel, Shri R. R.
Patil, Shri Anantrao
Patil, Shri C. A.
Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao
Patil, Shri S. B.
Patil, Shri T. A.
Patnaik, Shri Banamali
Patnaik, Shri J. B.
Peje, Shri S. L.
Pradhan, Shri Dhan Shah
Pradhani, Shri K.
Purty, Shri M. S.
Qureshi, Shri Mohd. Shafi
Raghu Ramaiah, Shri K.
Rai, Shrimati Sahodrabai
Raj Bahadur, Shri
Rajdeo Singh, Shri
Ram, Shri Tulmohan
Ram Dayal, Shri
Ram Prakash, Shri
Ram Sewak, Ch.
Ram Singh Bhai, Shri
Ram Surat Prasad, Shri
Ram Swarup, Shri
Ramji Ram, Shri
Ramshekhar Prasad Singh, Shri
Rao, Shrimati B. Radhabai A.
Rao, Shri J. Rameshwar
Rao, Shri Jagannath
Rao, Dr. K. L.
Rao, Shri K. Narayana
Rao, Shri M. S. Sanjeevi
Rao, Shri M. Satyanarayan
Rao, Shri Nageswara
Rao, Shri P. Ankmeedu Prasada
Rao, Shri Pattabhi Rama
Rao, Shri Rajagopala
Rao, Dr. V. K. R. Varadaraja
Rathia, Shri Umed Singh
Raut, Shri Bhola
Ravi, Shri Vayalar
Ray, Shrimati Maya
Reddi, Shri P. Antony
Reddy, Shri K Ramakrishna
Reddy, Shri M. Ram Gopal
Reddy, Shri P. Bayapa
Reddi, Shri P. Ganga
Reddy, Shri P. Narasimha
Reddy, Shri P. V.
Reddy, Shri Sidram
Reddy, Shri Y. Eswara
Richhariya, Dr. Govind Das
Rohatgi, Shrimati Sushila
Roy, Shri Bishwanath
Rudra Pratap Singh, Shri
Sadhu Ram, Shri
Saini, Shri Mulki Raj
Samanta, Shri S. C.
Sambhali, Shri Ishaque
Sanghi, Shri N. K.
Sangliana, Shri
Sankata Prasad Dr.
Sant Bux Singh, Shri
Sarkar, Shri Sakti Kumar
Satish Chandra, Shri
Satpathy, Shri Devendra
Satyanarayana, Shri B.
Savant, Shri Shankerrao
Savitri Shyam, Shrimati
Sayeed, Shri P. M.
Sen, Dr. Ranen
Sethi, Shri Arjun
Shafee, Shri A.
Shafquat Jung, Shri
Shahnawaz Khan, Shri
Shailani, Shri Chandra
Shambhu Nath, Shri
Shankar Dayal Singh, Shri
Shankar, Dev Shri
Shankaranand, Shri B.
Sharma, Shri A. P.
Sharma, Dr. H. P.
Sharma, Shri Madhoram
Sharma, Shri Nawal Kishore
Sharma, Shri R. N.
Sharma, Dr. Shanker Dayal
Shashi Bhushan, Shri
Shastri, Shri Biswanarayan
Shastri, Shri Raja Ram

Shastri, Shri Ramavatar
Shetty, Shri K. K.
Shinde, Shri Annasaheb P.
Shivappa, Shri N.
Shivnath Singh, Shri
Shukla, Shri B. R.
Shukla, Shri Vidya Charan
Siddayya, Shri S. M.
Siddheshwar Parasad, Prof.
Singh, Shri Vishwanath Pratap
Sinha, Shri Dharam Bir
Sinha, Shri R. K.
Sohan Lal, Shri T.
Sokhi, Sardar Swaran Singh
Stephen, Shri C M.
Subramaniam, Shri. C.
Sudarsanam, Shri M.
Sunder Lal, Shri
Suryanarayana, Shri K.
Swaminathan, Shri R. V
Swamy, Shri Sidrameshwar
Swaran Singh, Shri
Tarodekar, Shri V. B.
Tayyab Hussain Shri
Tewari, Shri Shankar
Thakre, Shri S B.
Thakur, Shri Krishnarao
Tiwari, Shri Chandra Bhal Mani
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tombi Singh, Shri N.
Tulsiram, Shri V.
Uikey, Shri M. G.
Unnikrishnan, Shri K. P.
Vekaria, Shri
Verma, Shri Balgovind
Vidyalankar, Shri Amarnath
Vijay Pal Singh, Shri
Vikal, Shri Ram Chandra
Virbhadra Singh, Shri
Yadav, Shri Chandrajit
Yadav, Shri D. P.
Yadav, Shri Karan Singh
Yadav, Shri R. P.
Zulfiquar Ali Khan, Shri

NOES

Shamim, Shri S. A.

MR. CHAIRMAN: The result* of the division is:

Ayes: 342;

Noes: 1.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

The motion was adopted.

15.21 hrs

DEMANDS FOR GRANTS (PONDICHERRY),* 1975-76.

MR. CHAIRMAN: We shall now take up the next item, namely, discussion and voting on the Demands for Grants in respect of the Budget for the Union territory of Pondicherry for the year 1975-76.

DEMAND No 1.—LEGISLATIVE ASSEMBLY

MR CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 2,88,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Legislative Assembly'."

Shri Genda Singh, also recorded his vote for AYES.
*Introduced with the recommendation of the President.

DEMAND NO. 2.—ADMINISTRATOR

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 6,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Administrator'."

DEMAND NO. 3.—COUNCIL OF MINISTERS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 3,25,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Council of Ministers'."

DEMAND NO. 4.—ADMINISTRATION OF JUSTICE.

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 8,51,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Administration of Justice'."

DEMAND NO. 5.—ELECTIONS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 2,58,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Elections'."

DEMAND NO. 6.—REVENUE

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 28,02,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Revenue'."

DEMAND NO. 7.—SALES TAX

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 4,46,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Sales Tax'."

DEMAND NO. 8—TAXES ON VEHICLES

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 94,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Taxes on Vehicles'."

DEMAND NO. 9—SECRETARIAT

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 12,23,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union

Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Secretariat'."

DEMAND NO. 10—DISTRICT ADMINISTRATION.

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 25,48,000 on Revenue Account and not exceeding Rs. 6,01,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'District Administration'."

DEMAND NO. 11—TREASURY AND ACCOUNTS ADMINISTRATION

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 8,21,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Treasury and Accounts Administration'."

DEMAND NO. 12—POLICE

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 46,08,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Police'."

DEMAND NO. 13—JAILS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 2,35,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Jails'."

DEMAND NO. 14—STATIONERY AND PRINTING

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 7,30,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Stationery and Printing'."

DEMAND NO. 15—MISCELLANEOUS ADMINISTRATIVE GENERAL SERVICES

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 5,11,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Miscellaneous Administrative General Services'."

DEMAND NO. 16—RETIREMENT BENEFITS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 12,94,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course

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of payment during the year ending the 31st day of March, 1976 in respect of 'Retirement Benefits'."

DEMAND NO. 17—PUBLIC WORKS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 1,22,76,000 on Revenue Account and not exceeding Rs. 79,62,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Public Works'."

DEMAND NO. 18—EDUCATION

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 1,93,49,000 on Revenue Account and not exceeding Rs. 19,000 on Capital Account be granted to the President out of the Conoslidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Education'."

DEMAND NO. 19—MEDICAL

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 99,59,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Medical'."

DEMAND NO. 20—INFORMATION AND PUBLICITY

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 5,02,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Information and Publicity'."

DEMAND NO. 21—LABOUR AND EMPLOYMENT

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 7,31,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Labour and Employment'."

DEMAND NO. 22—SOCIAL WELFARE

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 31,86,000 on Revenue Account and not exceeding Rs. 17,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Social Welfare'."

DEMAND NO 23—COOPERATION

MR. CHAIRMAN: Motion moved:

That a sum not exceeding Rs. 10,50,000 on Revenue Account and not exceeding Rs. 7,45,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necesary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Co-operation'."

DEMAND NO. 24—MISCELLANEOUS GENERAL ECONOMIC SERVICES

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 4,65,000 on Revenue Account be

granted to the President out of the Consolidated Fund of the Union Territory of Pandicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Miscellaneous General Services'."

DEMAND NO. 25—AGRICULTURE

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 51,81,000 on Revenue Account and not exceeding Rs. 3,40,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Agriculture'."

DEMAND NO. 26—ANIMAL HUSBANDRY

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 10,06,000 on Revenue Account and not exceeding Rs. 1,17,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Animal Husbandry'."

DEMAND NO. 27—FISHERIES

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 26,26,000 on Revenue Account and not exceeding Rs. 30,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Fisheries'."

DEMAND NO. 28—COMMUNITY DEVELOPMENT

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 21,31,000 on Revenue Account and not exceeding Rs. 49,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Community Development'."

DEMAND NO. 29—INDUSTRIES

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 5,28,000 on Revenue Account and not exceeding Rs. 7,29,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Industries'."

DEMAND NO. 30—FOOD AND NUTRITION

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 1,72,000 on Revenue Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of Food and Nutrition'."

DEMAND NO, 31—ELECTRICITY

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 1,18,75,000 on Revenue Account and not exceeding Rs. 53,43,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray

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the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Electricity'."

DEMAND NO. 32—PORTS AND PILOTAGE.

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 2,64,000 on Revenue Account and not exceeding Rs. 1,71,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Ports and Pilotage'."

DEMAND NO. 34—LOANS TO GOVERNMENT SERVANTS

MR. CHAIRMAN: Motion moved:

"That a sum not exceeding Rs. 16,72,000 on Capital Account be granted to the President out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sum necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of 'Loans to Government Servants'."

The demands for Grants are now before the House. Shri Kathamuthu may continue his speech.

*SHRI M. KATHAMUTHU (Nagapattinam): Mr. Chairman, Sir, the principal reason for the Budget of Pondicherry being discussed again and again on the floor of this House is that there is no elected Assembly in the State of Pondicherry. After the proclamation of Emergency, it has become a matter of doubt whether the election will be held soon in Pondicherry. All the pertinent problems of Pondicherry can be discussed in great depth and detail if an Assembly is constituted there after holding the elections. After the proclamation of Emergency and after the announcement of the economic programme by the hon. Prime Minister, I do not think it would be possible to implement the economic programme efficiently and effectively by the Lt. Governor of Pondicherry. I doubt whether this economic programme would be implemented as vigorously as it should be by the bureaucrats:

The economic programme announced by the Prime Minister in substance refers to six salient points concerning the development of rural areas. I doubt very much whether the Lt. Governor of Pondicherry will be able to implement effectively the Land Reforms Act, the Cultivating Tenants Protection Act the abolition of bonded labour and such other serious rural development programmes adumbrated by the Prime Minister. In this connection, I have to say that the Land Reforms Act being implemented in Pondicherry is an exact copy of the Tamil Nadu Land Reforms Act. You know, Sir, that the Tamil Nadu Act has not yet been incorporated in the 9th Schedule of the Constitution on account of the fact that the Tamil Nadu Act does not conform to the guidelines laid down by the Central Government in this matter, particularly with reference to the concept of ceiling on the family holdings. Naturally, when a similar Act is implemented in Pondicherry, there will be the same drawbacks as are to be found in Tamil Nadu. There is no doubt that the economic programme which requires constant mass contact can be implemented successfully by the elected representatives of the Assembly. In the absence of such an elected Assembly in Pondicherry, it becomes all the more necessary that the Central Government should get all the required amendments to the existing Acts passed by this House, so that unwarranted lapses do not occur in Pondicherry at the time of implementing the statutes.

Sir, the problems of agricultural labour are getting multiplied day by day in Pondicherry There is the ques-

*The original speech was delivered in Tamil.

tion of minimum wages to the agricultural labour. The issue of abolition of bonded labour is there If these problems are to be resolved for the benefit of the common people, either the elections should be held as early as possible in Pondicherry or the necessary amendments to relevant legislations should be got passed by this House so that they are effectively made applicable to Pondicherry in the absence or an elected Assembly. I would like to urge upon the hon. Minister to give serious thought to this urgent necessity for solving the problems of the people of Pondicherry.

Coming now to the question of irrigation facilities, Pondicherry is dependent upon Cauvery waters: Karaikkal is part of Pondicherry: 27000 acres of land under cultivation are dependent upon Cauvery waters: But, as this House is aware, there is the Cauvery Water dispute between Tamil Nadu and Karnataka. When negotiations are taking place for resolving this dispute between Tamil Nadu and Karnataka, I regret to point out that no representatives of Pondicherry are associated with such negotiations. While the representatives of Kerala, where only 5000 acres of cultivated land are dependent upon Cauvery waters, are associated with the negotiations being conducted about the sharing of Cauvery waters, it is highly regrettable that no representation has been given to Pondicherry in these negotiations. Similarly, there is no representation for Pondicherry in the Cauvery Valley Authority also. The agricultural problems have become acute in Pondicherry because agriculture in Pondicherry is dependent upon under-ground water resources. I have to painfully point out that the moneys allocated for minor irrigation are getting reduced year by year in Pondicherry. Added to this is the problem of acute shortage of power in Pondicherry. The people of Pondicherry have been demanding for many years now the establishment of a Thermal Power Station there. In March last when the Pondicherry Budget was being discussed in this House, the same hon. Minister assured this House that the thermal power project in Pondicherry would be taken up in the current financial year. I have to say that no preliminary steps even have been taken in the matter of establishing a Thermal Power Plant in Pondicherry. I request the hon. Minister to ensure the establishment of the Thermal Power Plant in Pondicherry before the close of this financial year itself.

Sir, the administration of the Lt. Governor in Pondicherry has converted the single-point sales tax into multiple-point sales tax. This has inevitably led to a steep rise in the prices of essential commodities and the people of Pondicherry have been undergoing untold hardships on this score. The hon. Minister should look into this question also because Pondicherry is firstly a Union Territory and secondly there is President's rule there. The people of Pondicherry cannot ventilate their grievances through their elected representatives. It becomes the responsibility of the Central Government to look in to the problems of the people of Pondicherry.

In March last when Pondicherry Budget was discussed in this House, the hon. Minister assured that the questinn of pension to Freedom Fighters in Pondicherry will be settled quickly. He stated that 400 applications had been received, out of which decisions had been taken on 140 applications. He assured this House that the remaining applications for pension would be settled expeditiously. But, actually no progress has been made in this direction. One of the arguments advanced for the inordinate delay is that there are some criminal cases instituted by the erstwhile French Government against these freedom fighters. Sir, this argument is untenable because these freedom fighters had fought relentlessly against the French Imperialists and sacrificed their everything for the purpose of integrating Pondicherry with the Indian Union. The problem of these freedom fighters should be settled expeditiously.

[Shri M. Kathamuthu]

In conclusion, I would like to emphasise the need for getting the required amendments to the principal Acts passed by this House so that the economic programme announced by the Prime Minister can be effectively implamented in Pondicherry. There is the question of abolishing bonded labour; there is the question of implementing land ceiling Act in Pondicherry. There is the question of transforming the rural areas into fertile fields of development. The Government of India should bestow their personal attention in the development of Pandicherry.

With these words, I conclude.

DR. HENRY AUSTIN (Ernakulam): Mr. Chairman, I thought of this brief intervention in this discussion because territory-wise the territory of Pondicherry is not a homogenous unit; a part of Pondicherry is included in the geographical area of Kerala. Because of this peculiar geographical situation that enclave which is in the geographical area of Kerala has been, by and large, neglected. Since most of my political activities for organisational purposes are concentrated on the areas adjoining this area, namely, Mahe I know the problems there. For instance, some of the most heroic battles or struggles waged during the freedom struggle were in Mahe, which was then a French enclave. Long before Pondicherry and other places were free, the French foothold on the Malabar coast was wrested from foreign domination. Mahe was liberated from France and declared independent; then it was ceded to Pondicherry. I just want to highlight one or two problems concerning the territory as a whole and Mahe in particular.

Speaking generally, I would say that any serious student or observer of the developmental process in this country would know that the smaller the State the better it is for the purpose of economic development. That has been the case of Haryana or Himachal Pradesh or Punjab or the eastern States. I am mentioning Haryana because it was largely a backward portion of the erstwhile prosperous Punjab State. After bifurcation, Haryana has almost come up to the level of Punjab and it is model of development today. So, the fact that Pondicherry is a small territory should not deprive it of an opportunity to develop at a faster rate.

I think Pondicherry is increasingly becoming associated with the international effort to evolve a composite culture. Though not in Pondicherry itself, in its vicinity is the rising city of Auroville on which world attention is being focussed. People, who start believe in common brotherhood irrespective of caste, creed, religion or country live there in harmony and people are looking forward to the success of the experiment being made there with the blessings of UNESCO. Now that the Central Government is incharge of the administration of Pondicharry, it should also have an interest in the future of Auroville. This opportunity should be utilized to give whatever financial or other aid that is necessary to make Pondicherry itself a model State. The city of Auroville and the activitities of the Aurovindo Ashram give a new dimension to Pondicherry. These aspects apart, improvement of the lot of the people of Pondicherry, 90 per cent being poor, should receive the main focus for purpose of development of Pondicherry.

I would say that the Central Government should immediately launch relevant projects, connected with 20-point programme announced by the Prime Minister, in Pondicherry. Let us make it show-case territory. Let us make it a small model State where there is all-round economic development; where a composite culture thrives. That would be an ideal thing. You can project it as a show-piece.

Coming back to Mahe, there is a textile mill in Mahe which is clamouring for expansion. I would request the hon. Minister to look into the problem. After all, Mahe is a small enclave, the total population of which is below 10,000. If that mill is expanded, at least some of the many unemployed can get employment. I am glad the Minister is assuring me that it would be looked into. I thank hon. Shri B. P. Maurya for this assurance.

Even for the purpose of representation of their grievance they will have to travel about 600 miles to reach Pondicherry. How many of the people of this enclave of Mahe can afford to tragel 600 miles from Mahe to Pondicherry to represent their grievances.

There is a good fisheries harbour with a lot of mechanised boats in Mahe. If that harbour is developed, a lot of improvement can take place in that area. Since the bulk of the population of Mahe are miserably poor, the development of the Mahe Textile Mill and the fisheries harbour will go a long way in solving the acute unemployment problem

There is also the problem of sea erosion. Sometime back I had occasion to go that way and see the problem for myself. Every year during the monsoon season there is terrible encroachment by the sea. After all, this is a small enclave.

SHRI K. MANOHARAN (Madras North): Suggest its inclusion in Kerala.

DR. HENRY AUSTIN: Although we are land-hungry people, we do not want to rob a small State of its territory. We will see it later. The current problem is that the sea is eating away land from the already small Mahe region. So, I would request the hon. Minister to see that anti-sea erosion work is launched because, after all, the sea coast area of Mahe would hardly be about a mile or so. That land should be protected because now valuable land is being croded by the sea every year.

In Pondicherry we have to ensure that the French culture is preserved and protected. Late revered Pandit Jawaharlal Nehru wanted to maintain the identify of Pondicherry largely to preserve the French culture, which is quite different from French imperialism; French culture, as is well known, has a special place in the mosaic of world culture. Indo-French cultural interaction will certainly evince world interest.

Then I come to the question of freedom fighters. A number of people of Mahe have suffered long period of incarceration during the freedom struggle and yet many of them have not been paid political pension. They had to fight against French imperialism and sacrifice much and now they have no means of livelihood. Most of them are very old They deserve the nation's gratitude and recognition.

These are some of the points that I would like to highlight and I would request the hon. Minister to look into them.

SHRI ARAVINDA BALA PAJANOR (Pondicherry): Mr. Chairman, I do not know what to speak on this occasion. I am sure that this Appropriation Bill will be passed in some twenty minutes. Last time when I tried to speak something on Pondicherry, many members who were then present raised number of technical points and about four or five hours were spent on that. Today I do not see anyone of them to discuss those points,

In this Bill, people of Pondicherry and their welfare is directly concerned. I am thankful to the CPI member and Dr. Henry Austin, who spoke about the needs of Pondicherry.

The day I entered this Parliament I had to speak on this subject. Do you know the reason? Because, the legislature in Pondicherry was dissolved.

[Shri Aravinda Bala Pajanor]

Every time I am repeating the same demand, namely, for a legislature in Pondicherry. I am sorry to say that nothing is being done, so far the emergency is there.

On the first occasion itself I asked for the extension of the Succession Act. I do not know what has happened to that. Shri Kathamuthu referred to the Ariamkoppam project, the sugar mill and so many other things. But I do not find anything concrete being done in respect of those things.

When the emergency was proclaimed and the 20-point programme was declared, we thought that this programme will reach the people. The media to reach the people is meetings and certain other communications. I am sorry to tell you that in Pondicherry a different version is given to the people by the present administration there. We are not permitted to assemble in five or six people and speak about it. I do not understand what is the meaning of the emergency if the emergency is to curb even explaining the 20-point programme to the people. I do wonder what the administration there is going to do in transforming the society in the new spirit announced by our beloved Prime Minister.

Sir, last week, people who possessed in excess of 10 bags of paddy were arrested. Hundreds of small landowners were arrested. I tell you that they got a wrong notion that this emergency is to harass and suppress the common man. If that is the case, I am afraid, the noble ideas of our Prime Minister, the common cause for which we all stand, will not reach the common man. So, at least, this must be done and, I hope, the Home Ministry will take it up seriously and act. I may tell you that if you continue this, the image of the Prime Minister in my territory will go down.

Now, when the Prime Minister visited Pondicherry last time, I made a personal request to her to meet the people there. I said, "We are all happy that you have come to our place." Proper meetings were not arranged for the Prime Minister to meet the people. It would have been better if it had been done. I agree on one thing. She might belong to a party. But that is not the case. She belongs to the nation. She belongs to the people of Pondicherry also. If proper meetings had been arranged, it would have been better. The things would have been appreciated much better. It would have given a different picture of the situation to the people of Pondicherry. She said, "during my next visit, I will do it." I am afraid, she may be very busy now with other matters in other parts of the country. I hope, a day will come when she will come to Pondicherry and understand the feelings and the spirit of the people of that place.

I am thankful to my hon. friend, Dr. Henry Austin, who spoke about the French culture. The culture is deteriorating. I am not one who asks for the French culture. But we are the people who adopt good things from others. Our windows are always open to adopt good things from others and adopt them as our own. From the French people, what we learnt in those days was the generosity and adaptability. Now, the bourgeois mentality is getting into the administration. I am not going to blame anybody for this. But the British system somehow or other had that mentality. When the Prime Minister explained it immediately after Emergency that we must get out of this and go to the people in direct action, I thought that would be extended to Pondicherry also which enjoyed it under the French rule. But I am sorry to say that now the powers of the officers, and others, by this Emergency, have increased. I wish now under Emergency, if they fail to understand the people and work for the people, we will miserably fail in our task.

Everyday, I am getting hundreds of letters. There is only one Member of Parliament representing the territory

of Pondicherry. Dr. Henry Austin referred to Pondicherry as a State. It is not even a State. It is under the direct control of the Central Government. This is an oppotunity for you to apply your mind and spirit on action also. If you want to develop the country, you have to develop it from every corner. You can start from Pondicherry. The territory of Pondicherry does not fall in one State. Some parts of it lie in Kerala, some in Andhra Pradesh and some in Tamil Nadu. Therefore there is a chance to develop the national spirit from this small State.

Last time, when I made a number of points, the Finance Minister congratulated me for explaining these things. I am thankful to him. I know he has got only limited resources. But if you see the list of items here, you see it is a prototype of the same things for the third time being repeated in Parliament. Most of the expenditure, out of Rs. 13 crores over a period of one year is spent on overheads. Pondicherry is declared as a backward area. But the backward area is getting only the overhead expenses. You are paying the officials; you are paying the clerks; you are paying the tehsildars and so on and so forth. But if you take the proportion of development, the real development is not going to the people of Pondicherry. The people are living in the same style. Dr. Henry Austin referred to the poor people of Mahi. There are poor people in Karaikal; there are poor people in Pondicherry; there are poor people in Yanam. This is the condition of the people there. In comparison to other States, the Central allocation for Pondicherry is very much lower. If there is an allocation under a particular head, there must be development proportionate to that allocation. But in Pondicherry all these things are, I am forced to say, wasted on overheads. The administration is eating away the entire money. The people are not benefited. You have to think of some solution to solve this problem.

Now, the Governor is in Pondicherry and he is having a certain number of Secretaries with him. As the Doctor explained, it is 600 miles to Mahe, 400 miles to Enam and 100 miles to Karaikal and Pondicherry. I am informing this House every month but you say the popular Government is there, money is being wasted on Legislatures and Ministers and so on. We have had these discussions a number of times. But now the Governor has to do the same followed by the Secretaries to Mahe, Enam and Karaikal three or four times in a month. So money is being wasted like before. I can tell you that people can never approach them. They go and give out publications that 'we are with the people, we are part of the people' and so on. But, rightly or wrongly, we were ruled by foreign people and ours is a foreign system; we still function under that system. At least for twenty or thirty more years people will not approach these officers and unless the officers approach the people the problems will not be solved. This is the reason why we are having an elected democracy and we are having Legislatures, Councils and so on. But nothing is done in Pondicherry and people still think that somebody is ruling. They say that once upon a time the Frenchman ruled and now somebody else from somewhere is ruling. I am sorry to say that that though we are governed by our own people, they don't realise that it is we who are governing; they feel that foreigners are still ruling this country. On this shore, I can show some letters if you want. They think we are still Maharajas or that we are still foreigners—why?

Shri Kathamuthu referred to those who worked for independence—the freedom fighters—that they are not given due respect. This is a problem I had raised on the very first occasion as also on the second and third occasions and I am again raising it; but you don't seem to have any interest. All of you are interested in the Ashram. I don't know how many people visited the Pondicherry Ashram—and

[Shri Aravind Bala Pajanor]

I invite them to come and visit the Ashram—but, apart from the Ashram let us talk about Pondicherry. You must understand the people who are outside the Ashram also. As I told the Prime Minister, of course, the Ashram is an interesting place in Pondickerry, but the people of Pondicherry are much more important than the Ashram. I am not against the Ashram, but the Ashram is not everything and Pondicherry is not surrounded by the Ashram alone. If I should say that Aravind Bala is everything I would be a fool. I would not say that because I only represent the people of Pondicherry, you should consider the people of Pondicherry more than the institution. We must give due proportion to the interests of Pondicherry people.

Then, the Member referred to the Cauvery Valley Authority. I think the Member should be aware that the Authority is not functioning now. So far as water distribution is concerned, we have to go with a begging bowl to Tamilnadu; so far as the University is concerned, we have to go to Tamilnadu. So far as administration is concerned, we have to come to Delhi. So is our dependence.

I shall mention a specific instance now. When the transfer took place in 1954 it was assured by our late beloved Prime Minister, Panditji, that Pondicherry people will be given seats in proper proportion in the administration. Subsequently they evolved a solution and they said that out of 65 16 seats will be provided for the people of Pondicherry. I would like to Minister to enquire into the matter. They make use of the rules to find certain loop-holes. People from outside were allowed to get admission but people from Pondicherry could not get the allotted seats. Even last year they were not able to get that number. Out of the 16, they provided three seats for French graduates. That is the main grievance of the people of Pondicherry. They don't have a University and no Engineering College is there. When I told the Health Minister, he said he will look into it. I don't know whether he has looked into it or not. Even this year, admissions are practically over and I don't find that the proportion that was assured in letter is given spirit in execution.

If I go on speaking like this, some of them with say "Pajanor, you speak well; you have expressed the feelings of your people". I can tell you honestly in this House that though I am happy that we are able to express ourselves freely without any disturbance, I am not a person to be elated or pleased by this kind of expressions and complements. I am happy about such comments and congratulations, but that is not the end of the job. I must say this at this stage, after the 26th of June, 1975 we have taken it into our heads that we will work for the people. If you are really sincere, you start with the small institution, with small things, and then only our sincerity will be appreciated by our people otherwise, posterity will curse us and that will go deep down in history. I hope that this will be the last time when this kind of pleasing words will be expressed in this House. Next time, when an opportunity comes to me, I must get up and tell you, 'I am thankful to the Central Government; I am thankful to them for the 21-point economic programme of which we have accomplished 20 or 10 or 5 and Pondicherry is benefited'. When I said that within 20 minutes we could finish this Bill, though one hour was allotted to it; because it looks a blank paper to me. Let it not be a blank paper next time also. I want all the members to take some interest, study the problems and discuss Pondicherry with statistics from Government side. I will be a person interested in discussing Nagaland with statistics.

This morning I told the Minister of State in the Ministry of Home Affairs, 'I do not find any Bill for the extension of the President's rule in

Pondicherry whereas I find a similar Bill so far as Nagaland is concerned, and I am given to understand that it is a mistake. The President's rule in Pondicherry expires on the 28th September whereas in the case of Nagaland it expires on the 26th September. But they have not introduced any Bill. I thought that they might have elections there some time in August or September. But that may not be possible. I may be wrong if I ask for election there now. It is upto you to consider and do what is best for the country and for Pondicherry. But, before that, I only make this request to you. There are so many Ministers here. The Minister of State in the Ministry of Home Affairs is in direct charge of Union Territories. After all, there are only nine Union Territories. He can pay a visit once in two or three months to understand our difficulties. Do not leave the entire administration in the hands of certain individuals. That is not safe. I am not saying anything against the person who is at present governing there. Today during the discussion on the Constitution (Amendment) Bill, you spoke about Administrator and his satisfaction. But his satisfaction is misinterpreted in other ways. MISA may be misused in many ways. Ultimately the common people are harassed, the villagers are harssed, the small shop-owners are harased. Now they are trying to take away the right to approach the courts for the encroachments during Emergency. The other day in Pondicherry some police officials were telling four or five persons who were standing, 'I can make use of MISA and send you to prison'. That might have been a joke, but that is not to be expressed as a joke. The Prime Ministerf has said that the whisper campaign is the worst campaign that will demolish democracy in this country. The bureaucracy, the people in power, are thinking that they can misuse the powers that are given under Emergency. We should strike at the proper moment; otherwise, the danger will eat away this country and we will be sorry for it.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB KUMAR MUKHERJEE): Mr. Chairman, Sir, I am thankful to the hon. members for making brief but very valid observations so far as the Budget of Pondicherry is concerned. Frankly speaking, when I come forward with this Budget, I come before the House with some limitation. The limitation is that, practically, it is a repetition of the arguments which I had to put forward when I presented the Budget and Vote of Account last March. Therefore, when the hon. Member from Pondicherry expressed his displeasure regarding repetition of the same items and almost the same type of expenditures, I appreciate his feelings. But, at the same time, I cannot but express my helplessness. At the same time it is also a fact that, compared to 1974-75, it has been possible for us to make some additional allocations so far as the Annual Plan of Pondicherry is concerned, so far as certain developmental projects, which are Centrally-sponsored, are concerned. It has been possible—and I would like to place on record our appreciation for the State administration—to mobilise additional resources within the very limited scope.

The Governor has been criticised. Some of the officers there have been criticised. I do not feel that each and every action taken by the officers there under the overall administrative control of the Governor is all right. But, at the same time, it has to be kept in mind that, so far as developmental aspect is concerned, so far as restoration of normalcy from the unprecedented drought is concerned, Administration can deserve some credit for the period which is under review.

In so far as the reduction of prices in that particular territory is concerned, perhaps it is less than the all-India index. A large number of fair price shops have been started there

[Shri Pranab Kumar Mukherjee]

and informal type of rationing has also been introduced.

It is to be kept in mind that in the Union Territory there is not much to be done so far as the internal resources are concerned. Almost for every developmental project which is of some magnitude, it has to depend upon the Central assistance. On the other hand, hon. Members are well aware so far as the resource position is concerned, we are equally in a very tight position. Therefore, within these constraints we have to work and there may be certain omissions and commissions either on the part of the Central Administration or the local Administration, but it should be our endeavour to see that we can do away with these types of omissions and commissions.

Two Central projects have been specifically mentioned by the hon. Members and they have said that no progress has been done. No progress has been done in the sense that the projects have not yet come up and have not yet started functioning. But so far as the official progress is concerned, I mean, the progress on paper I can tell that certain progress has already taken place. The project reports have been finalised. Now it is awaiting clearance from the Government of India. On the last occasion also, I mentioned that a project like thermal power or a project like port, which requires substantial investment cannot be done merely by the States own resources. It is to be financed by the Government of India and that too is being looked into.

Regarding the freedom fighters' pensions and problems of the students of getting accommodation in the medical colleges, training etc. and certain other things which have been mentioned and which relate to other departments, I can only submit, as is the usual practice while discussing the supplementary grants and Appropriation Bill, that I would pass on the same to the concerned Ministries.

15.59 hrs.

[SHRI G. VISWANATHAN *in the Chair.*]

I take the opportunity of congratulating you, Sir, for occupying the chair.

Sir, it would be our endeavour to see that the points which have been mentioned here are looked into a due consideration is given to them.

I agree with the friend from Pondicherry that sometimes when we speak of Pondicherry, the illustrious institution of Pondicherry overshadows our mind and we forget that apart from that institution, the people of Pondicherry have their own problems and those problems have to be sorted out in that context and in that perspective. After all, the institution is not identical with the people and with the territory of Pondicherry. People have their own problems and those have to be sorted out. Definitely, Ashram has created an impact and it has made Pondicherry popular throughout the world on various angles.

16.00 hrs.

But, at the same time, mere development of the Ashram would not sort out the problems of the people of Pondicherry. It has been mentioned why we should not make Pondicherry an experimental step for implementing the Prime Minister's 21-point programme. My esteemed colleague, Dr. Austin has suggested why we should not make it some sort of a model. It would have been an ideal objective. But, at the same time, we shall have to keep in mind that so far as the economic programmes are concerned, perhaps we cannot take that type of approach. Each and every part of the country which is backward is to be developed. To have some sort of a show-piece may give some psychological satisfaction, but, to confront the problems, socio-eco-

nomically in the real sense of the term, it would not have that much effect.

Another very interesting point has been highlighted. Of course, it requires a detailed discussion—whether for the development, particularly, for the economic development of the State, the size of the State should be taken as a relevant factor and very correctly my friend over there quoted some of the instances which can corroborate this argument. But, at the same time, there are other instances also. Sometimes, we find that fragmentation of the areas does not lead to economic development unless the other contributory factors remain there and we can exploit those contributory factors to the fullest extent.

Certain other steps have also been mentioned which do not strictly concern me. I would draw the attention of my colleagues in other Ministries and see that the problems are sorted out.

Before I conclude I can assure my hon. friend—also I have told him informally that I do not know all this—that I would take the earliest opportunity to be in Pondicherry and I would like to be acquainted with the problems over there.

MR. CHAIRMAN: Now, the question is:

"That the respective sums not exceeding the amounts on Revenue Account and Capital Account shown in the fourth column of the Order Paper, be granted to the President, out of the Consolidated Fund of the Union Territory of Pondicherry to complete the sums necessary to defray the charges which will come in course of payment during the year ending the 31st day of March, 1976 in respect of the heads of demands entered in the second column thereof—

Demands Nos. 1 to 32 and 34."

The motion was adopted.

SHRI S. M. BANERJEE (Kanpur): I want that the money should not be paid in cash because it will add to the inflation.

16.03 hrs.

PONDICHERRY APPROPRIATION (NO. 2) BILL*, 1975-76

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB KUMAR MUKHERJEE): I beg to move for leave to introduce a Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1975-76.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1975-76."

The motion was adopted.

SHRI PRANAB KUMAR MUKHERJEE: I introduced the Bill.

I beg to move†:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1975-76, be taken into consideration."

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*Published in Gazette of India Extraordinary, Part II, section 2, dated 23-7-1975.

†Introduced/moved with therecommendation of the President.

MR. CHAIRMAN: The question is:

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1975-76, be taken into consideration."

The motion was adopted.

SHRI K. MANOHARAN (Madras North): I congratulate you on your elevation.

MR. CHAIRMAN: The question is:

"That clauses 2 and 3, the Schedule, Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 2 and 3, the Schedule, clause 1, the Enacting Formula, and the Title were added to the Bill.

SHRI PRANAB KUMAR MUKHERJEE: I beg to move.:

"That the Bill be passed".

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

16.06 hrs.

CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) BILL.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB KUMAR MUKHERJEE): I beg to move:

"That the Bill to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, be taken into consideration."

As Hon'ble Members are aware prevention of smuggling and the conservation of foreign exchange are of vital importance to a country like ours. In December, 1974 the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 was enacted by Parliament to immobilise, by detention, the persons connected with smuggling, foreign exchange racketeering and related activities and to disrupt the machinery established for furthering these activities. Hundreds of persons have been detained under the provisions of this Act both by the Central and the State Governments. Detention of some of these persons was challenged in writs of habeas corpus in the various High Courts of the country. In view of the clandestine manner in which such persons carry on their activities and the consequent difficulty in securing the type of evidence needed to comply with the rigid standards insisted upon by the Courts, some persons against whom orders of detention were made under the Act have succeeded in getting such orders set aside. These orders were set aside in a number of cases by following the case law that has developed in regard to detentions under the Maintenance of Internal Security Act, 1971, principally relating to persons detained for acting prejudicially to public order; the orders were set aside by reason of the finding that some of the many grounds of detention urged by the Government in support of an order of detention were vague, irrelevant or otherwise invalid. Considering the special category of persons being dealt with under the Act, the clandestine methods adopted, and the organised nature of their activities, it is found necessary to clarify that the grounds are separable so that the non-acceptability of one or more grounds does not result in automatic release, and thus defeat the aim of Government to disrupt the operations of these anti-social elements.

Some persons had obtained release on bail or otherwise from Courts con-

trary to the intentions of the Government regarding temporary release as contained in Section 12 of the Act.

The President issued a Proclamation of Emergency on 3rd December, 1971. Another Proclamation of Emergency (due to internal disturbances) was issued on 25-6-1975. Some of the persons engaged in smuggling and foreign exchange racketeering have been posing a serious threat to the economy and to the security of the nation owing to their large resources and influence. In the present Emergency the disclosure of grounds of detention to such persons and compliance with the usual procedures of reference to the Advisory Boards would not be in the larger interests of the nation.

In order to deal with the above and in view of the urgency of the matter the President promulgated on 1-7-75 the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1975. The Bill seeks to replace the provisions of the Ordinance

I move that the Bill be taken up for consideration by the House.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, be taken into consideration."

SHRIMATI ROZA DESHPANDE (Bombay Central): I support the Bill. At the outset, I congratulate the Government that they have taken several steps to fight this menace of smuggling and to bring down their activities. As the Minister has said, smuggling had become a danger to the economic stability and structure of the country. Smuggling has become rather a political game of the monopolies and a weapon of counter-revolutionaries for the last four years or so, de-stabilising and dehinging the economy of the country. We can see this because this has been happening on a very high scale for the last 3 years or a years. Formerly also smuggling did exist and I remember, if you asked somebody, what is your business, one would say, my business is smuggling; and it was taken lightly in that way. But for the last 4 years we can see that it has really started challenging the fabric of our economy. It has created a sort of parallel economy. The feeling went round among the people of the country that this Government is ultimately going to give shelter to these smugglers. We know that there have been people inside the bureaucracy, inside the Government, who had been supporting smugglers including some Ministers In a way it has become a weapon in the hands of the counter-revolutionary elements which we are fighting today, because, smuggling has not only de-stabilised our economy, but at the same time, it has had its political effect also regarding the total picture of our country, about the picture of the Government and also about our morals. I say this because it has affected our people in a way that they felt that nothing can be done, people thought that one who smuggles things can have multi-storeyed buildings, can alive very luxuriously and lavishly in this country and the Government will not do anything. The fast deterioration of the economy had added to this feeling.

It is not only the bureaucracy which is the only thing which is responsible which has given encouragement, which has, in a way, protected smuggling. But the whole atmosphere and the deterioration of the economy in the country has helped the smugglers and it has helped the people who were interested politically to disrupt the economy of this country. Please look at the kind of goods that are smuggled. Gold is being smuggled. Do you think that Gold is

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needed only by the women to make bangles and ornaments? It is not so. Gold is a commodity which is the safest commodity to block your black money and that is why gold was smuggled in a very high scale in this country.

Mind you, these superprofits are converted into gold and they keep them with them. Therein lies why the smuggling of foreign currency, gold and such goods has been taking place here. It is not that the commonman is interested in these goods. If Government were to tell or to give a call to the people, that we need not produce the luxury goods hence forwill surely agree with it. We do not need any luxury goods. Is radio a luxury good? Is watch a luxury good? Is nylon cloth a luxury good? Even a petty worker wants to have a good radio. The Phillips radio which is being produced here cannot be compared to the one produced by the parent company. Everyone wants imported goods and there is craze for the imported goods Why is it taking place? Can't you produce such goods here? I know there is a colony known as Ulhasnagar Sindhi Association near Bombay. They produce goods there and sell as imported They only buy the cloth--nylon cloth—and print it with the mark 'USA'. What does USA stand for? It stands for Ulhasnagar Sindhi Association and not United States of America. Please do not keep it in mind that I mean that the Sindhies are doing this. What is USA for? It is not United States of America at all. But, then people are so much mad and crazy after imported goods that their products are going by their own name—USA. Why is this happening in this way? First of all, a commonman who has an income of Rs. 1,000 or so would like to have a good quality radio or a good quality wrist watch and a good quality cloth. Do we get it? Private companies are given licence to meet increasing demand for these goods. They only produce substanard goods and dump in the market which are being sold at a very high price. People cannot at all afford to buy it and even if they buy it, they buy only the sub-standard goods. What are you doing for it?

For instance, Phillips wanted a licenec for expansion. One does not know whether it was given at all or it was given to somebody else—maybe, to some interested party. Why should we not see that Phillips produce standard radios for mass consumption which could be compared to their parent company's production? It is not done. Japanese watches are imported. Is it not possible to produce standard goods here in our country? In this country the affluents of the society are going in for the goods which we are not producing in this country You will see that multi-millionnaire people are spending lavishly in marriages and offering dowries in marriages of their daughters. You can not create an atmosphere of austerity in the country while such lavishness exists in a section of society. We can stop producing goods which are not needed at all by the commonman. For example, the cloth which is given to the commonman is hopeless. You cannot think that a factory worker can use that substandard cloth which you are giving to him. The mills produce cloth which they export outside and earn foreign exchange The best cloth that is produced by the mills is exported. Why can't we produe the cloth for our own consumption? What is the harm in that? A mill in Bombay wanted to put up more looms but you will not permit that. Why can't you give this good quality cloth to the people. Bombay Dyeing produces the same type of cloth. For whom is it produce? I may tell you that it goes somewhere else and again it comes back here and is sold as imported goods. Why are we after the imported cloth or imported goods? Even the consumer goods that are given to the people are substandard. We are not punishing these multinational companies—these monopolists

—in the way we want them. For instance, there is over-invoicing and under-invoicing. Can we find the same? It is there where the super-profits are made. We know there are so many companies who have in their bank accounts thousands and thousands of sterling in Switzerland. Some of these multi-millionaires give their home address as Switzerland. They have their establishments in Switzerland. One of the Directors of Tata has given his address as of Switzerland. When T. T. Krishnamachari was the Finance Minister he found that Bird & Co. was making money through over-invoicing and under-invoicing. When it was detected the manager ran away with all the money. This is not a small factor. If we are not going to stop this then merely giving sermons to the people to look to the present conditions in this country would not serve the purpose and would not solve the problem. Arresting of few smugglers—no doubt, it is a welcome measure—will not improve the situation. They were the most ordinary people like fishermen or ordinary coolie. The point to be considered is how did they get into it unless there were some big people behind smuggling. There are such people. We know, to some extent, Ministers were involved in backing the smugglers. I would like to emphasise again it is good we are arresting smugglers and punishing them but we have to take some basic measures. Smuggling is the greatest menace to our economy and in order to fight out this challenge let us take some basic measures and let us not be satisfied with this that we have put Hazi Mastan and Mr. Narang behind the bar. I read in Economic Times that as Mr. Narang is in prison one the judge gave him the permission to get food from his home and could meet his family people once in a month. You know 'why'? Because he must have peace of mind and stability of mind! But, when we workers are arrested, we do not need peace of mind and stability and this and that. To these people, who are indulging in smuggling and challenging you, the judiciary is giving protection. Therefore, please be careful while passing all these Ordinances, look to the loopholes in the various enactments. These people who are trying to ruin the country and its economy in every way are given protection by the judiciary. The sovereign Parliament should take care of this and not the judiciary which sits somewhere, on the top floor and gives some kinds of judgement in favour of smugglers; we should take care of it.

I would again emphasise that we have to be careful in fighting this menace. We have to look to our economy and what the people want. Don't only say that we are not going to produce luxury goods. Don't say that. For example, a working girl does like to have a nylon saree. If I want to buy a nylon saree from a Bombay textile mill, it costs nothing less than Rs. 200. But, if I buy a smuggled one, I get it for Rs. 75. What do you want working sisters to do?

AN HON. MEMBER: Go in for that one which costs you Rs. 75.

SHRIMATI ROZA DESHPANDE: Surely we have to do it. If you want, I can produce dozens. Even today, with all this Emergency, everything is being sold in Bombay. Why can't we produce such goods in our Bombay mills? Why can't the mills produce such goods which the common people do want as a necessity? Instead of going in for cotton sarees, working girls like to wear nylon sarees. It can be just put in water, dried and worn. It has become economical. Why can't you look at it from that point of view? But, our mills want to earn foreign exchange for the benefit of the country. Benefit or no benefit, they do not care for this country. We know it very well. Then, why don't we look to this and see that such goods and such

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cloth are produced and sold in this country and not exported?

We should fight smuggling in every way. I would make an appeal to the hon. Finance Minister, hon. Industries Minister—all are sitting here—that we all have to combine and think on these lines. You should not think that this under-invoicing and over-invoicing is a very minor part. It forms a major part as far as the drain on foreign exchange is concerned. It is very difficulty to be found out. Many companies are indulging in this under-invoicing and over-invoicing and earning crores of rupees, mind you, crores. The smuggling of wrist watches and radios is only a small part of the total quantum These multinationals which have a worldwide empire of their own are eroding the foreign exchange earnings and our own monopoly concerns are involved in it. I would request the Finance Minister to take steps to find out which are these companies and bring them to book. I would not take much time. But, I would request the Minister to think of combating this menace on these lines and link it with our economy. We should fight this menace not by giving sermons but by giving goods of proper standard—watches and radios—to the people and increase their production to meet the demand. Then, you can go to them and tell them that they should not buy smuggled goods. If you do so, I am sure the people of this country will cooperate with you.

SHRI S. R. DAMANI (Sholapur): I rise to support the Bill. It is a fact that smuggling into the country is going on on a large scale Sometime back, smuggling was mostly of gold and in return they used to smuggle out silver. But slowly this activity spread and smuggling of consumer goods started. Now to a great extent smuggling is of consumer goods. Everything from ball point pens to refrigerators is being smuggled.

The hon. lady member said that the reason for the smuggling was the quality of the smuggled goods. According to me, one of the major reasons for increase in smuggling is not the inferior quality of our goods but the excise duty, tariff, on goods produced in the country is so high that it has become profitable to smugglers to smuggle these goods. On account of this, smuggling has increased.

The second point is this The hon. lady member mentioned about nylon and other items. What is the extent of the duty on these nylon produced in the country? It is three times. Now it is profitable for the smugglers to smuggle these items and make money. These goods can be produced in the country and sold at a reasonable price. But on account of the duty on these items, the production of these items has suffered.

On account of smuggling, many small industries have suffered very badly. Those industries which are producing fountain pens, ball point pens and other goods have to pay excise duty whereas the smuggled goods are sold free of such duty Therefore, our goods cannot compete either in quality or in price. This has very badly affected specially the small scale and medium size industries producing these consumer goods.

Then again, the policy followed by Government in disposing of the seized goods is defective and requires to be corrected. This has been giving a cover to smugglers to smuggle these goods. What is being done of the goods seized by the customs department? They sell them by auction. The persons who purchase them resell them in the market to the consumer. They purchase these items and then go on selling these smuggled items under cover and protection. I have drawn the attention of the hon. Finance Minister several times to this and said

that this system of selling should be stopped; if it continues, protection will be there and it will be difficult to stop smuggling. But recently I notice that Government are considering stopping such sale of smuggled goods. They want to sell it duty-free at airports. But I do not know how far it will be possible to dispose of such a huge quantity of seized goods duty-free at the airports zone. I think if Government decide to call for tenders for exporting these seized goods and if they are exported, the country will get foreign exchange. Also there will be no cover to sell smuggled goods in the country because the present system gives such a cover. They should adopt this policy of calling for tenders for the goods seized by the Government for exporting it outside. There are many countries which are importing those goods and they can buy those goods. There will be no difficulty in disposing of those goods that way. In this way the country would be able to get the foreign exchange and it will be difficult for the smugglers to sell the goods as they do now. With these suggestions, I support the Bill.

SARDAR SWARAN SINGH SOKHI (Jamshedpur): Sir, I welcome the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill which came in the form of an Ordinance promulgated by the President of India on 1st July, this year to amend the original Act of 1974. Smuggling of foreign exchange, black marketing, hoarding and corruption are all interlinked and they have deep roots which adversely affect the economy of our country. The persons engaged in smuggling and foreign exchange racketeering are the worst enemies of our country. Our country has no sympathy for them and they should be dealt with by imposing the maximum penalty, even death penalty if possible, irrespective of whether they are Indians or foreigners. No smuggling could take place unless the high officials of our police and border security forces indulge in corrupt practices due to greed or other reasons.

The big smugglers who were arrested in the past were released by our courts one by one and again they started their business, after getting out of the jails, so that this amendment was very essential. It has been hailed by all sections of the people in our country.

I think that in the past our courts treated the offences of the big smugglers, hoarders, blackmarketeers, etc. in an ordinary way, without considering the impact on the economy. By this amendment they will either leave this business once for all or rot in jails for the whole of their lives. It is doubtless that the persons engaged in smuggling and foreign exchange racketeering were posing a threat to the economy and security, and they had large resources and influence inside and outside the country. In some cases they encountered our border security forces on land and sea. By the re-arrest of those sharks who attempted to bring in or take out gold, diamond and other valuable things and who were the actual blood suckers, Government had really saved the country and the man on the street in our country appreciates this commendable step taken by the Government.

The smugglers operate at all levels in the country, right from the street level upto the palatial buildings and it is really a matter of great regret that even respectable women are engaged in smuggling of every sort and they go to the extent of performing fake marriages with the smugglers for the sake of smuggling. In this International Women's year I should request them to kindly keep away from smuggling and avoid bringing bad name to the womenfolk.

Still there is a lot of foreign currency smuggled into our country and it is in operation through illegal means, even through our nationalised banks in the capital too. The Government should check the same and

[Sardar Swaran Singh Sokhi]

do something about it. It should be done immediately by the Ministry concerned. The properties of the big smugglers must be confiscated and seized permanently and it should not be released under pressure or threat, even after the emergency is over. Here, I may suggest that the present emergency should continue till smuggling including foreign currency is rooted out because due to this there is threat to internal security. It does not matter if emergency continues till such time in national interest. Sir, smuggling, hoarding, black-marketting and corruption are interlinked which is a socio-economic problem and should be dealt with during this emergency period, once for all.

There is no question of natural justice for the smugglers who knowingly stake and why they should be spared when even inspite of the Prevention of Smuggling Activities Act passed in the year 1974. Now, they will come to their senses when the courts would not be able to help them in getting out of the jails and instead they would rot there for their whole life By this amendment all their activities would be completely paralysed because the foreign smugglers who are the master mind behind them would not be able to operate in our country who used to help them with equipment and finance.

The main items being smuggled from Pakistan are, opium, hasish, fire arms, almonds and cloves and from India Banarsi Saris, cardamom, betal leaves, semi-precious stones and small engineering goods. The Pakistani smugglers cannot dare to enter our country if the people on this side of the border does not encourage them and have a self imposed responsibility to check smuggling, keeping in view the vast border line with Pakistan. The villagers should catch them and hand them over to the police or security force. The weapons captured so far by the border security force were mostly manufactured in Pakistan and are as good as the best manufactured in the more advanced countries in the world.

During recent raids at Delhi, Agra, Bombay and Poona it was found that news prints worth crores of rupees were smuggled to neighbouring countries, by importing from a neighbouring country and exporting to another neighbouring country, this is not only an act of income-tax evasion but of smuggling and I understand that these persons held are very influencial and I would request the Government to show no leniency towards them and challan them under this smuggling amendment Act.

SHRI S. A. SHAMIM (Srinagar): Mr. Chairman, there is no quorum. All the Members are still in the Central Hall.

MR. CHAIRMAN Let the quorum bell be rung. Now, there is quorum The hon. Member may continue.

SARDAR SWARAN SINGH SOKHI: There is no doubt that the Government is vigilant about the smugglers being active on our borders but the administrative machinery should be streamlined and toned up, to check the foreigners, whether gents or ladies, with uptodate detecting equipment and separate confidential cells should be created directly under the ministers concerned for effective implementation of this amended act, because Pakistan might be using some of the smugglers for intelligence purpose. So a strict watch along the border is very essential.

With these words, I support this Bill.

SHRI CHAPALENDU BHATTACHARYYIA (Giridih): Mr. Chairman, Sir, I whole-heartedly support the present Bill. In December, a large number of smugglers had to be released because of decisions of various High Courts and thereby the anti-smuggling activities almost came to a standstill. If in the present emergency justiciability can be taken away from the political workers, these smugglers

should not be given the justiciable right. Therefore, it is right and proper on the part of the Government to take away justiciable right from economic offenders and smugglers. It will strike terror not only to these persons but also to those who are the brains behind the smuggling whether they are in India or in Hongkong or in Dubai and the smuggling will be brought under control. I will like to give an example. Take a small item like mica which is being exported from this country. After 1966 devaluation the Finance Ministry imposed 40 per cent export duty on this commodity. The result was that out of Rs. 15 crores of mica which has been exported from Bihar, Rs. 5 to 7 crores of smuggled mica was said to have been exported via Nepal. That is a rough index of smuggling. If the Customs Department is vigilant enough, we can save crores of rupees for Indian economy. The customs duty which we earn is about Rs. 900 or Rs. 1,000 crores This is a visible tip of the iceberg from which we can deduce that Indian economy is losing about Rs. 700 to Rs. 900 crores in customs duties due to these smuggling activities. Smuggling foreign exchange manipulations, over-invoicing and under invoicing have a cumulative effect. In Mica it may be 60.40. In Mangalore coast, for instance, in the course of three years fishermen's huts may be changed into pucca buildings and in that town of 40,000, 200 new Ambassador cars may ply. In fact, from Gujarat right down along the sea coast making allowance for local difficulties, smuggling assumed more and more a big business. How and why this was allowed to grow?

While supporting the Government in their desire to stiffen laws against these economic crimes, one has to point out there has been a very definite failure in the organisation—either technical failure or human failure. That is also required to be stiffened. My submission is that our basic attitude should be to haul up the big people. The small fry, including the officials, should not be proceeded against that heavily. In fact, just as in income-tax they do not bother much about people with lower level incomes, similarly in the case of smuggling also, the customs and vigilance organisation should concentrate on the main culprits and smaller fry should not be given the attention they have been getting all this time.

This requires honest implementation. Tremendous powers are being given to the Government officials. Therefore, in the anti-smuggling drive internal monitering committees for monitoring and evaluation of the daily and weekly results is a must. I entirely agree with Mrs. Deshpande that one of the main motivating forces behind smuggling is the quality differential, not just the price differential, of the goods. In India, under the tariff shelter, we are helping to produce a lot of goods so that we can have economic independence. The difficulty is that unless we go in resolutely for quality control and improve the quality of our goods to international standards, our weakness will always remain, and by propaganda, we will go in for what is called foreign goods. That is not to our national self-respect. We have to set our own house in order. Sir, with these words, I support this bill and we hope that the network of smugglers, with the master-minds operating behind them, will be hauled up; and our economy, in the present context of our foreign exchange situation, will get a respite--which it so badly needed—from this blood-letting.

DR. KAILAS (Bombay South): While supporting the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1975, I would offer some comments and ask some queries to which I expect that the Minister would kindly reply. In the Statement of Objects and Reasons, It is mentioned in the first paragraph:

"Some persons against whom orders of detention were made under

[Dr. Kailas]

the Act had to be released because the orders of detention were held to be void as some of the grounds of detention were considered by Courts to be vague, irrelevant or otherwise invalid."

I can understand their coming out should be stopped and we should have an amendment to Section 5, by adding 5A. They say, under (a) of 5A:

"such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever."

But, Sir, some smugglers were sent out by the courts in December, 1974. Why did the Government wait for the declaration of emergency for coming out with this amendment like this? This should have been done much earlier. In the Statement of Objects and Reasons, para 2, it is said:

".....to the security of the nation owing to their large resources and influence. In the present emergency, the disclosure of grounds of detention to such persons and compliance with the usual procedures of references to Advisory Boards would not be in the larger interests of the nation."

Sir, when it has been said in the beginning of the Statement of Objects and Reasons that "Smuggling, foreign exchange racketeering and related activities have a deleterious effect on the national economy", why are we trying to have this amendment and restricting it only to the period of emergency? I would say that smuggling should be debarred for reference to the Advisory Boards for all times to come. When you say this in the Statement of Objects and Reasons and you say in the changes quite limited which Government are proposing here as 12A, viz.:

"(1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution ..." etc.

and that too, for a short period of one year which may be counted either from 3rd day of December 1971—which I could not understand, you may kindly explain—or as it says in the bill:

"a period of twelve months from the 25th day of June, 1975, whichever period is the shortest."

When we know that smuggling and economic offences are creating havoc in this country why is the Act being amended only to that extent? So, the words "period of twelve months" should not have been there; and it should never be referred to the advisory board. We can definitely make this provision as a permanent one. In the same way under (2) of 12A it is said:

"the Central Government or the State Government or, as the case may be, the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency...."

Again the word 'emergency' is occurring so often. It continues:

"that Government or officer may make a declaration to that

effect and communicate a copy of the declaration to the person concerned."

I do not understand this. It seems the emergency is going to be perpatually with us. I am sure emergency should not last more than 6 months or, at the most one year; and some normalcy will have to come. Never mind it may be for a period of 10 years; but to make such rules and to say "within one year" then it will lapse is not correct. We should now permanently bar any person who is indulging in smuggling. Their cases will never be referred to the advisory board; and an officer of the State Government will have no chance of giving any reason to the person why his detention has been made and why he has to be put behind the bars. I can understand that the State Government should examine the cases properly and that the person should get natural justice. I am understand; but if it is known that we have got a large number of Haji Mastans here, why should even those known cases be referred to the board?

17.00 hrs.

Hence I would request Mr. Mukerjee, who is handling this department so well, that he should explain why these things have been kept only for the emergency period. We want this to be a permanent feature that smugglers should be debarred from all illegal activities.

As rightly pointed out by Mrs. Roza Deshpande and supported by Mr Bhattacharyya, we should also have taken care of under-invoicing and over-invoicing. Smuggling is a bad as under-invoicing and over-invoicing. Hence, the multi-national corporations or monopoly houses which are regularly multiplying their black money by under-invoicing and over-invoicing should have been covered by this Clause and punished in the same way as the smugglers. I think you are giving respectability to such people because they happen to have more money and hence you do not want to touch the multi-national corporations and monopoly houses. They must be touched and brought within the net of this legislation in the same way as the smugglers.

Hence I would request Mr. Mukherjee to kindly explain this to the House and to the country at large. My speech may not find a place in the newspapers, but his words will go round the country, and hence he should announce that Government will put a stop to these smuggling activities as also under-invoicing and over-invoicing.

With these words, I support this Bill, though it is very much delayed, though it is restricted to the period of the emergency, but since it is a good piece of legislation, the Government should be congratulated.

SHRI K. NARAYANA RAO (Bobbili): The simple answer to Dr. Kailas's question is that only during the emergency, the power of Parliament can be extended in this manner. Otherwise article 22 comes into the picture according to which the grounds must be stated and the Advisory Committee has to be consulted.

DR. KAILAS: Why should he reply? The Minister can reply. Why should they not amend article 122 and amend it during emergency i.e. take advantage of emergency under article 352?

श्री मूलचन्द डागा (पाली) : सभापति जी, 1974 में एक कानून पेश किया गया, उसके पास होने के बाद अब आप एक आब्जेक्शन लेकर आये हैं।

"The effective administration and realisation of the purposes of the Act have been rendered difficult by reasons of the clandestine manner in which the persons engaged in

[Dr. Kailas]

these operations carry on their activities and the consequent difficulty in securing sufficient evidence to comply with the rigid standards insisted upon by courts."

यह कसूर किसका है ? यह सरकार का कुसूर है, सरकार मशीनरी का कुसूर है । 1974 में आप बिल लाते हैं और उसके बाद यहां अपने भाषण में आप सारे एशोरेस देते हैं–आप जरा अपनी स्पीच को पढ़िये आप देखिये उसमें आपने क्या कहा था और अब आप एक साल के बाद आ कर कहते हैं कि हालत खराब है—

A bad worker always quarrels with his tools.

इसका मतलब तो यह है कि आप काम करना नहीं जानते, आपकी मशीनरी ठीक नही है, तब फिर हमें क्यों दोष देते हैं । इस पार्लियामेंट में आप जो हमें कहेंगे, वह तो हम कर ही देंगे, लेकिन कानून में एक बात है–चाहे 100 गुनहगार छूट जायें, लेकिन एक बेगुनाह नही फंसना चाहिये । यह कानून का उसूल है । आप हमें बतायें–उन तस्करों ने क्या बयान दिये, जिनको आपने इतने दिनों तक बन्द रखा है मैं समझता हूं 5–6 महीने तक तस्कर जेल में रहे, आपने इन्वेस्टीगेशन किया होगा, एन्क्वायरी की होगी, आप हमें बतलायें कि उन्होंने क्या कहा ? वे लोग कैसे छूट गये, क्यों छूट गये । हमसे कहा गया कि हमारे रीजन्ज वैलिड नहीं थे, कोर्ट ने टैकनिकली एक्जामिन किया,इसलिये छूट गये । मैं आपसे पूछता हूं कि उनके डिटेंशन आर्डर में क्या रीजन्ज दिये गये थे, उनमें अगर कोई कमी थी तो क्यो थी, कौन उसके लिये जिम्मेदार है ?

सभापति महोदय, हमारे कस्टम्ज के अधिकारी कितने मालदार हो गये हैं, क्या कभी आपने जांच की, कितनों को सजा दी–पिछले एक साल में । मैं जब पिछली दफा फौरन एक्सचेंज बिल के सिलसिले में बम्बई गया था, तब मुझे मालूम हुआ कि जितने कस्टम अधिकारी थे सब मालामाल हो गये हैं । उनके पास मोटरें हैं, बगलें हैं...

17.06 hrs.

[SHRI C. M. STEPHEN: *in the Chair*]

श्री पन्नालाल बारुपाल (गंगानगर) : करोड़पति बन गये ।

श्री भूल चन्द डांगा : मैं फाइनेंस मिनिस्टर से पूछता हूं–आपने कितनों के खिलाफ कार्यवाही की, कितनों को जेल भेजा । क्या कभी उनकी पूंजी का सर्वे करवाया, उनकी जांच कराई कि वे कितने गुनहगार हैं और उन्होंने कितने गुनहगार पैदा किये हैं । वे लोग खुद स्मगलर्स के साथ चलने वाले हैं । उन स्मगलर्स को डिटेन करने के बाद भी आप कहते हैं कि उनकी एक्टीविटीज बढ़ी हैं–यह बात हमारी समझ में नही आती । गवर्नमेंट मशीनरी पर आप जहां करोड़ो रुपया खर्च करते हैं और कहते है कि हम स्मगलर्स को पकड़ लेगें, लेकिन उसका परिणाम क्या निकलता है, आप फिर भी उनको पकड़ नही सकते, क्यों कि आपके आफिसर्ज उनसे मिले हैं । इस लिये एक दफा अपने आफिसर्ज का सर्वे कराइये, देखिये कि उनके पास कितना पैसा है, कितनी प्रापर्टी है तब आप को सही हालत मालूम होगी ।

हाजी मस्तान ने अपने बयान में कहा था–अगर अधिकारी मेरे साथ नहीं मिलते तो मैं यह काम नहीं करता–यह उस का स्टेटमेंट था ।

डा० कैलाश : इलस्ट्रेड वीकली मे निकला था ।

श्री मूल चन्द डागा : आप जरा उसके स्टेटमेंट को पढ़िये । अगर आपके इन्कम टैक्स आफिसर्ज चोर न होते, तो काला धन नहीं बढ़ता । ये सारे चोर बैठे है, लाखों रुपया इनके पास है और हम इसलिये मालदार हुये, क्योंकि हमने उनका हिस्सा दिया । इसलिये मेहरबानी करके अपनी मशीनरी को मजबूत कीजिये ।

स्मगलिंग को रोकने के लिये आपने बड़ी बड़ी नावें खरीद ली है और उनके जरिये लोगों को पकड़ रहे है, लेकिन फिर भी वे लोग आप को धोखा दे रहे है । इस एमरजेंसी में आप इस कानून को लाये हैं और चाहते है कि हम इसको पारित कर दें । इस में हम अमेंडमेंड नहीं रख सकते हैं । अमेंडमेंड नही होगा तो लोग कहेंगे कि हम तस्करों के साथ किसको सहानुभूति हो सकती है । हिन्दुस्तान का कोई भी ईमानदार आदमी, देश भक्त, देश का हित चाहने वाला, स्मगलरो के साथ ऐसा व्यवहार नहीं कर सकता । यह आप की सारी मशीनरी ऐसी है जो इस का करना नही चाहती है, जिसके इरादे गलत है, जिसने उन लोगो को चोरी करना सिखाया है । मालदार बन चुके हैं, शराब पीते हैं—क्या आप ने कभी उनकी जाच की है । आप देखिये—वह बालयोगेश्वर भाग गये, वे भगवान पता नही कहां चले गये—आपके इन अफसरो ने क्या किया ? आज जब आप का बिल पढ़ता हूं तो मुझे दुख होता है । एक लायर के नाते मुझे इसको देख कर दुख होता है—इस वक्त स्टीफसन साहब चेयर में बैठे है—आप देखिये—I hope, Mr. Stephen who is in the Chair will also apply his mind to it. It says:

"Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever,"

Now what has he to explain? कोई सबूत न भी हो तो भी कोई परवाह नहीं । एक भी हो तो कुछ नहीं । लेकिन वह जो रीजन्ज दिये जायेंगे वह माने जायेंगे । जब रीजन्ज ही माने जायेंगे तो फिर आप इसको क्यों रखते है । मद्रास में मैंने एक अच्छी घड़ी खरीदी, आपने कहा कि यह स्मगल्ड गुड है इसलिये पकड़ो इसको । मैं एक साल जेल में रहूंगा । अगर मैं कहूं कि मेरा कोई कसूर नही है मुझे माफ किया जाय, तो अधिकारी कहेगा कि मैं माफ नही करता क्यो कि तुम्हारे पास स्मगल्ड समान है । आप स्मगलर को पकडिये । आप डिटेंशन में 12 महीने तक जिसको चाहेंगे रखेंगे । सरकार जो रीजन्स देती है यह उसकी कमजोरी दिखाता है । हम आज तक यह नही जान सके कि तस्करी किस प्रकार करते हैं, और हमको गवाह अवेलएबिल नही होते । 8, 8 महीने तस्कर जेल में रहे आप इन्वेस्टीगेट नही कर सके । Now, what are the offences? Harbouring of persons engaged in smuggling goods dealing in smuggled goods or engaged in concealing or keeping smuggled goods.

[श्री मूल चन्द डागा]

यह मेरे दोस्त हैं समुद्र के किनारे रहते हैं यह मुझे कहने लगे कि तुम्हारे लिये रेडिया ले आऊं। मैंने कहा ले आइये। कहा गया कि यह स्मगल्ड गुड है। आप डिटेंशन के लिये पावर किस को दे रहे हैं? उन्हीं अधिकारियों को जिन की लापरवाही से तस्करी चलती है। मैं मानता हूं कि एक मिनिस्टर सारे काम नहीं कर सकता क्योंकि उसके पास और भी सैकड़ों ऐनगेजमेंटस होते हैं। तो कह दिया :

"The Central Government or the State Government as the case may be" if the officer is satisfied.

आखिर में सारी पावर्स ब्यूरोक्रेट्स के हाथ में दे दी। मैं चाहता हूं कि एक भी बेगुनाह न फंसे चाहे 100 गुनहगार निकल जाये। आप अपनी मशीनरी को ठीक करें। अगर सरकार चोरों को नहीं पकड़ सकती तो वह सरकार किस काम की। जब आप रक्षा नहीं कर सकते तो आप किस लिये है? क्या करेंगे? जिसको चाहा पकड़ लिया। अब क्या है?

".....the Central Government or the State Government or, as the case may be, the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned".

हम लोग बम्बई जाते ही हैं। वह कहेंगे कि यह वही आदमी है, ऐसा मेरे साथ हो चुका है।

When I was MLA and when I spoke against the S.P., he registered a case under section 409 against me. (Interruption) After all, you must do your duty sincerely. After all, you must do something. Why should you leave everything in the hands of the bureaucrats?

एक ऐक्जाम्पलरी ऑर्डर था, अब प्रीवेंशन में वह भी नहीं रहा। चार, चार महीने करके आप 12 महीने किसी को भी रख सकते हैं। कोई वजह नहीं है रीजन्स देने की। मेरा कहना है कि गुनहगार तो फंसता नहीं है और बेगुनाह फंस जाता है अधिकारी लोगों ने कभी एक दूसरे के खिलाफ कोई एक्शन नहीं लिया। इन्होंने अपना एक कुनबा बना रखा है। इसलिये मैं चाहूंगा कि अधिकारियों की सिफारिशें या चापलूसी यहां सदस्य लोग न करें।

"Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force, shall be released, whether on bail or bail bond or otherwise."

अब कोई दूसरा ला लागू है नहीं। आपने यह आर्डिनेंस जारी किया जिस की जगह बिल लाये हैं, मैं जानना चाहूंगा कि 1974 में आपने स्मगलिंग एक्ट पास किया और उस वक्त जो आप ने आश्वासन दिया उसके अनुसार कितने स्मगलर्स के बारे में आपके अधिकारियों ने इन्वेस्टीगेशंस किये, उन्होंने क्या बयान दिये? कितने स्मगलर्स छूट गये? कितने बेगुनाह आदमी आज जेलों में हैं? कितने कस्टम्स अधिकारियों के खिलाफ आपने ऐक्शन लिया? जब कभी आप नया बिल लायें तो आप यह बतायें हमको कि यह ऐक्शन लिया था और उसमें हमको यह सफलता मिली और यह विफलता मिली। जब तक यह डाटा पार्लियामेंट के सामने न हो तब तक हम कैसे यह अधिकार आप को दे दें। मेरा निवेदन है कि हम को अंधेरे में नहीं रखना चाहिये।

श्री पन्नालाल बारहसैनी (गंगानगर): सभापति जी, जो हमें सूचना मिली है उसके मुताबिक मैं बताना चाहता हूं कि तस्करी कैसे होती है। जितने जहाज हैं, मर्चेन्ट नेवी है यह जब विदेशों में जाते हैं और मरम्मत के लिये यार्ड में चले जाते हैं वहीं उन

में तस्करी का माल भर दिया जाता है और भारत में आने पर उसी बोट का यार्ड में भेज दिया जाता है और वह माल वहां निकाल लिया जाता है । यह सब कार्यवाह। अफसरों की देख रेख में की जाती है । इसलिये आप ऐसी जगहों पर होशियार आदमिया को रखो जो किसी भी बोट के यार्ड में जाने से पहले उसको अच्छी तरह से जांच करे

SHRI PRANAB KUMAR MUKHERJEE: Mr. Chairman, Sir, I am thankful to the hon. members for making their observations on the amending provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. While making observations, the last speaker, Hon. Member Shri M. C. Daga, made some very forceful arguments and tried to point out that whatever could have been done was not being done because of the corrupt Customs officers, because the Ministers have no time to look into even the provisions of the Act and are otherwise engaged in appearing before T.V and Radio; no action has been taken against the Customs officers; blanket powers are being given to the bureaucrats.

Sir, not to speak of this piece of legislation, I do not know any other preventive detention measure which has been passed by this House and where the power has not been given to the officers. Even in the Defennce of India Rules, even in the Maintenance of Internal Security Act and even when it was not there and other types of preventive detention measures were passed by other legislatures, I do not know, whether this power was being given to anybody else other than the officers. And to what type of officers we have given this power While in the ordinary Maintenance of Security Act, the power has been given to a District Magistrate, here the power is given to the officers at the level of the Secretary in a State Government and at the level of Additional Secretary or Joint Secretary at the Government of India. I do not know, whether there is any other mechanism of transacting the business of the Government without the medium of the officers. This is merely an amending provision; powers are given in the original Act and the officers are empowered with this type of powers. do not know, what is wrong in it.

It has been said that we have not taken any action against the defaulting officers and before we come forward with a piece of legislation before the Parliament for its approval we should give what actions we have taken against the erring officers in the Department. I appreciate this point and I would like to give some of the figures, particularly the actions that we have taken after the emergency. Against as many as 500 officers action has been taken in the last two weeks. This is after the 26th June. 339 officers have been transferred and 178 have been asked to retire before their retirement age. There are 39 officers against whom other types of disciplinary actions have been taken. There are certain more cases in the pipeline. It is, therefore, not a fact that we are merely putting the smugglers behind the bar and against those people who have the doubtful integrity. we have not taken any action. These are not new figures which are being given on the floor. When I piloted this Bill in the original form in last December, I myself gave some figures of the actions we had taken.

SHRI H. K. L. BHAGAT (East Delhi): Transfer is not a punishment.

SHRI PRANAB KUMAR MUKHERJEE: It is a punishment. Sometimes if somebody is transferred from the vulnerable area to another area, that is a punishment.

SHRI H. K. L. BHAGAT: I might say for the information of the hon. Minister that transfer is never consi-

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dered any punishment. That has been the ruling of the courts invariably.

SHRI PRANAB KUMAR MUKHERJEE: Whatever be the legal position, when transfer takes place and particularly when some people are transferred from vulenrable areas, where smuggling takes place, definitely it is a reflection on them. Smuggling is not taking place all over the country.

SHRI H. K. L. BHAGAT: But it is not a punishment.

SHRI SHAMBHU NATH (Saidpur): Even departmental suspension is not punishment, what to talk of transfer. He must amend himself.

SHRI PRANAB KUMAR MUKHERJEE: It is very difficult for me to what action we have taken against the erring officers.

श्री पन्नालाल बारूपाल : मैं यह जानना चाहता हूं कि कितने लोग जेल भेजे गये और कितने अफसरों की सम्पत्ति जब्त की गई ।

SHRI PRANAB KUMAR MUKHERJEE: It is very difficult for me to say as to how many officers have been sent to jail and their properties confiscated. Even I have not been able to confiscate the property of smugglers, as the law is such that unless I can identify it and locate and establish their relation that it has been acquired out of the smuggling activities, I cannot do that. Therefore, it is easy to say these things and put questions. I can also put similar types of questions if I had not the privilege or misfortune of sitting in the Treasury Benches.

Therefore, it is not a fact that the Government is feeling shy so far as their own deficiencies are concerned. I do not rule out the possibility. I am not talking of punishment. I am talking of what steps we have taken against the erring officials. There are certain punishment cases. Definitely premature retirement is a punishment. You cannot rule that out. We have taken action of that type. Then We have taken action like reduction in the increment or stoppage of promotion which is a punishment. Therefore, whatever may be the legal construction, so far as I am concerned.....

MR. CHAIRMAN: The point the Minister is making is that after the 26th of June, the Government have gone into about 500 cases.

SHRI H. K. L. BHAGAT: We welcome the transfers. We are with the Minister. He has our support and appreciation.

SHRI PRANAB KUMAR MUKHERJEE: Another point Mr. Bhagat has said is, why we are making provision to Section 5A giving draconian powers to the officials, and why even out of some grounds one or two grounds become vague or irrelevant or non-existent the people should be arrested on the other grounds. He is a legal expert and he should know what was the out come of the judgment of the Gujarat High Court. All the six top detenus were released by the Delhi High Court which took that out of ten grounds, if even one ground is irrelevant or non-existent and the other nine grounds are good grounds, the man should be released because there is a one bad ground. In order to plug that situation, in order to see that even if some grounds may not exist but other grounds are good and relevant, the court should not have the opportunity of releasing the man because only one ground is bad, we have brought this measure. This is a matter on which even the legal our lawyer friends have their doubts. The Gujarat High Court has provisionally come to the conclusion that out of many grounds

if one ground is bad, that ground can be excluded and the person can be detained on the other good grounds. The Supreme Court has given the judgment in political cases that out of a number of grounds if one ground is bad, the man can not be detained on the other good grounds. But these are not political cases. We are dealing with a separate type of people and on many an occasion I have pointed out to the hon. Members that it had not been possible for us to deal with this type of people with the existing law. Otherwise there is no necessity for a draconian piece of legislation like this or for an over-riding power legislation like this But these people could not be produced before the courts. Even somebody is taking the name of Haji Mastan and Bakhia But it is really very difficult to establish before the courts with the evidences and with the documents that they are indulging in smuggling and have amassed so much wealth out of that.

Therefore, it is necessary to have this type of law It is asked whether this law may not be misused. I am not ruling it out the possibility of its being misused. There, the Parliament is there and the Ministers are there and even when Members of Parliament bring to our notice any erring officer, we take immediate action on it and we try to sort it out. Therefore, it is not a fact that if there is any misuse, that will not be taken care of.

An hon. Member suggested why we are not making it a permanent feature and why we are relating it to the emergency period only. If we can change the Constitution and if we can do away with the provisions of Article 22, perhaps we can do that. But reference to the Advisory Board is compulsory so far as preventive detention is concerned. As for provisions of Art 22 are concerned, so far as that Art 22 exists, no preventive measure can be taken where the reference of the case of detention to the Advisory Board can be stopped for ever. Even when a person is detained under Sec. 9, there we have taken the precaution of not referring the cases to the Advisory Board for a period of 9 months and we have referred only to the emergency keeping that point in mind. So long as emergency is there, these provisions are suspended and it is will then be easier for us to take care of these anti-social elements.

That is the only reason why it has been linked with the period of emergency and in order to see that this overriding power is not utilised for all time to come we have limited it for the time being upto one year i.e., for a period of one year (12 months) w.e.f. 26th June 1975. But there is nothing which can prevent the Government from bringing forward another piece of legislation to extend this period. At that time we shall get an opportunity of reviewing the whole matter.

In this connection I would like to point out that perhaps some sort of misunderstanding has developed, as six or seven people were released by the Delhi High Court that the entire anti-smuggling activities which Government took up for quite some time came to a negation. But that is not the fact. I would like to give some figures—

The total number of detention orders issued under the Act on 19th December, 1974....	527
Upto 19th July, 1975	1242

It is more than double. The number of detentions have increased considerably.

On many occasions a point was raised by many hon. Members and

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they expressed their anxiety why so many people are absconding and are avoiding arrests. There are certain legal provisions which we can resort to. The total number of absconders is 211. 181 are new absconders in the sense that their detention orders have been issued just a couple of weeks back.

In respect of 109 cases of absconders who are absconding for more than two weeks, actions have already been initiated to attach their properties and authorities have been sought All sorts of measures which are available with the existing laws and which are provided by the Parliament in the form of new legislation and in the form of ordinances which are already in vogue, we have taken up the matter and it is possible for us to put almost all serious type of smugglers behind the bar. But at the same time it is to be kept in mind that so long as there are certain basic factors in our economy, in spite of our best efforts, whatever 100 per cent pure customs and income tax organisations we may have, smuggling cannot be stopped for ever so long as economic distortions are there. It has been pointed out by Mrs. Deshpande, if somebody finds out (it is not a question of craze, it is a question of bare necessity) that a foreign product has more durability, it is cheaper and convenient, whatever amount of his patriotism may be, he would try to find out something foreign and compare it with the indigenous. We can build up a campaign and that campaign may have effect But I have every reason to doubt whether we can have that type of campaign so far as the essential items of daily use are concerned.

SHRI VASANT SATHE (Akola): I want to ask a question. What are you going to do with the smuggled goods which you captured and confiscated? If these find a place in the market much of irritation and confusion would arise. During the period of emergency will you see to it that they are not put in the market or be sent back to the countries from where they came?

SHRI BHAGWAT JHA AZAD (Bhagalpur): You can throw them into the sea.

SHRI PRANAB KUMAR MUKHERJEE: On 6th June 1975 we issued instructions that the smuggled goods which are confiscated will not be disposed of even to the co-operative societies except some perishable goods Some perishable goods like powder milk, chocolates and cigarettes are being confiscated

On the Indo-Nepal border, even some living animals like cows and goats are being caught and I cannot detain them perpetually But there are other types of goods which are being used as cover in the market for synthetic garments, yarns, electronic goods, etc. and we have issued instructions to all our Collectors of Customs, saying from 6th June on wards, there will be no disposal of items which are not of a perishable nature. We are assessing the market position to know what the impact of it has been and I understand that some reasonably satisfactory results have been located and thereafter we shall have to decide about these things. Some body suggested saying, some of us are quite interested to have some kind of bonfire of those imported things. Whether we can dispose of totally goods worth Rs 75 crores is another question which has yet to be looked into. And, the question of export also was discussed at some length. But, I may point out, it was not possible to find out a way because the agencies which can export these things themselves are finding it difficult. And even in respect of synthetic garments and

yarn, they are not of one type or of one quality and even if we sell them at less price than the market price, even the smugglers will organise themselves to re-purchase those things and send them back into the country.

SHRI VASANT SATHE: Ask the S.T.C. to do it.

SHRI PRANAB KUMAR MUKHERJEE: STC have refused to do it. We are trying. Even the Diamonds could not be exported. I am not talking of synthetic garments; I am talking of the diamonds and other precious types of things It is seen that they could not develop the sort of expertise through which we could export these to other countries.

Therefore, this is an exercise which is being constantly made at various levels. We are equally concerned how these types of goods will not be able to find their way in the market and that certificates are not being used as cover for the smuggled goods. And in order to do that, we have to change the baggage rules and we are contemplating to change the baggage rules. But even then, within these existing laws, we are issuing instructions saying that anything beyond Rs 500 should not be allowed to the passengers, even with paying the penalty and fines etc. And it is a fact that we have confiscated certain types of goods. But there are certain other types of goods which have to be looked into and we shall have to look into those aspects in greater detail.

I share the anxiety that these types of confiscated goods, by way of their disposal, should not be treated as a cover for other types of smuggled goods.

SHRI VASANT SATHE: What about wrist watches?

SHRI PRANAB KUMAR MUKHERJEE: We are using it for our army people in our border areas, those who are defending our country. Another measure is also taken. Except the areas where the smuggled goods are otherwise not available, we are not giving them to the Cooperative societies. In each and every place there is a craze for these goods. Almost every day, I am getting hundreds of letters, and some of them are recommended by politicians also, to give a quota to the cooperative societies etc. But we have restricted it. Therefore, it has been possible, by making these exercises, to reduce the smuggling activities to some extent. There is a fear of emergency, fear of this law, and there is the overall psychology also. And if we can make use of it, if we can streamline our organisation, we can do a lot, and it will go a long way.

I do not deny the possibility that there may be some collusion, some connivance. But for that connivance, all these smuggling activities would not have assumed these large dimensions and they would not have reached such state of affairs. But, at the same time it was perhaps too much to say that all our customs officers are corrupt, all our income-tax officers are corrupt. With the instruments which we have got, it has been possible for us to increase the number of raids many a time. Sir, if I give you just one figure, you will appreciate the position. The total number of raids have increased by more than 30 per cent. Between 1st January, 1974 and 30th September, 1974 the total number of raids was 38,736 and in the rest six months, this has been 41,405. Therefore, it will be seen that the number of raids has increased considerably.

And, corresponding to that, the quantum of goods seized as a result of these raids has been decreased. Therefore, this is an indication that

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the quantum of smuggled goods coming into the market has been reduced to some extent and we would never claim that it has been possible to negate it altogether. In spite of our best efforts, I believe, that it would take some time to do away with this menace altogether.

I hope that I have tried to cover some of the points which the hon. Members raised and I hope we will get the overall support of the hon. Members.

MR. CHAIRMAN: The question is:

"That the Bill to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now we take up clause by clause consideration.

There are no amendments to clauses 2 to 5. I shall, therefore, put them together to the vote of the House.

MR. CHAIRMAN: The question is:

"That clauses 2 to 5 stand part of the Bill".

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI PRANAB KUMAR MUKHERJEE: Sir, I beg to move:

"That the Bill be passed".

MR. CHAIRMAN: Motion moved:

"That the Bill be passed".

श्री रामावतार शास्त्री (पटना) : सभापति जी, आपने अभी मत लिया, इसी से अन्दाजा हो गया होगा कि सभी लोग इस बिल के समर्थन में हैं। हम लोग भी इसका समर्थन करते हैं। लेकिन मैं आपको स्मरण दिलाना चाहता हूं कि 1974 में जब आपने इस तरह का विधेयक इस सदन में पेश किया था, उसी समय हमारे दल ने इस बात की मांग की थी कि तस्करों को निकलने का सुराख मत छोड़िये। उन्हें सख्त से सख्त सजा मिले, जेल में बन्द रखा जाये और उनकी सम्पत्ति जब्त की जाये। लेकिन उस समय आपकी पार्टी ने हमारी इन तर्कसंगत बातों को स्वीकार नहीं किया था। देर से ही सही, देर आयद दुरुस्त आयदे की कहावत के मुताबिक विलम्ब से ही सही, इस सदन में इस तरह का बिल तो आप लाये हैं। हम तो इसका समर्थन कर ही रहे हैं, तमाम जनता आज तस्करी के खिलाफ है। आज तस्करी हमारे देश के आर्थिक जीवन और सुरक्षा के लिये अभिशाप है। इसको अगर आप समाप्त कर सकें तो जनता आपको बहुत धन्यवाद देगी।

तस्करी के खिलाफ आपने इस बिल के द्वारा कदम जरूर उठाया है। बहुत सारे माननीय सदस्यों ने यह बात बतलाई है कि जो अधिकारी इस कानून का कार्यान्वियन करेंगे, जो इसे लागू करेंगे उन्होंने अगर एमरजेंसी के तौर पर काम नहीं किया तो आपका यह कानून किताबों में रह जायेगा और जिस तरह से अब तक पूरे हिन्दुस्तान में तस्कर गोलमाल करते रहे हैं, आगे भी उसी तरह करते रहेंगे और हमारे आर्थिक जीवन को तहस-नहस करते रहेंगे। मैं आपको फिर चेतावनी देना चाहता हूं कि इस कानून को सख्ती के साथ लागू किया जाये।

बारबार इस सदन में यह बात उठाई गई कि राजनीतिक लोग भी तस्करों से दोस्ती रखते हैं। मैं यह जानना चाहूंगा कि क्या इस दिशा में आपकी सरकार ने कुछ जांच-पड़ताल करने की कोशिश की है। मैं बिहार की बात

जानता हूं । वहां बेगूसराय में एक सज्जन श्री कामदेव प्रसाद सिंह हैं । यह आज से नहीं हैं, बहुत दिनों से हैं और बड़े भारी गाजे के तस्कर हैं । वह और सामान की तस्करी भी करते हैं । सुना है कि अब वे नेपाल भाग गये हैं और यह भी खबर है, हम लोगों को पूरी जानकारी है, कि उनका सम्बन्ध बिहार के किसी मंत्री महोदय से है । उनको पकडने के लिये सरकार ने एक लाख रुपये का इनाम घोषित किया है लेकिन वह पकड़े नहीं जा सके है क्योंकि मंत्री जी उनकी सुरक्षा करते थे । इसीलिये मैंने कहा कि राजनीतिज्ञों का सम्बन्ध तस्करों से है । अगर आप इस पर हाथ नहीं लगायेंगे तो तस्करी को पूरे तरीके से खत्म नही कर सकेंगे । मै श्री कामदेव प्रसाद सिंह का हुलिया भी बताना चाहता ह ।

पिछले 1971 के लोक-सभा के चुनाव मे बेगूसराय इलाके मे आने वाले सदस्य अभी तो वह माननीय सदस्य यहा ह नहीं, जेल मे बन्द है, श्री श्याम नन्दन मिश्र, जो सगठन कांग्रेस के नेता है, उनका समर्थन श्री काम देव प्रसाद सिंह ने किया था । श्री कामदेव प्रसाद सिंह ने कम्युनिस्ट पार्टी के उम्मीदवार श्री जोगेन्द्र शर्मा के विरोध में 50 बूथ पर स्टेनगन लेकर कब्जा किया । उस समय कामदेव प्रसाद सिंह जैसे तस्कर का सम्बन्ध श्री श्याम नन्दन मिश्र जैसे संगठन कांग्रेस के नेता के साथ था । श्यामनन्दन मिश्र इस चुनाव में 5 कास्टीटुएंसी मे 20 हजार वोट से हार गये थे लेकिन बेगूसराय के बूथों पर इस तस्कर श्री कामदेव प्रसाद सिंह की मदद से इन्होंने 25 हजार वोट हासिल किये और 5 हजार से जीत कर यहा तशरीफ लाये । (व्यवधान)

उनकी खबर लेने वाले लोग हैं, क्योंकि मैं कम्युनिस्ट हूं, समझ जाइये । मैं आपकी तरह टोपी पहनकर यहां नहीं बैठा हूं ।

इसलिये वह जो तस्कर श्री कामदेव साद सिंह हैं, वह भाग गये हैं, एक लाख रुपया उनको पकड़ने के लिये इनाम है, और अब उनके सम्बन्ध कांग्रेस के साथ हो गये हैं । यह कांग्रेस के लिये तौहीनी की बात है । (व्यवधान) । कांग्रेस लम्बी-लम्बी बातें और समाजवाद की बातें करती है और अब फासिस्टों से लडने की बातें कर रही है । ठीक है लेकिन ऐसी फौज के सिपाहियों को लेकर आप नही लड सकते हैं । आप तस्करों को निकालिये । अगर आपका कोई नेता या कोई कार्यकर्ता उनसे सम्बन्ध रखता है तो उसे अपने सगठन से निकाल बाहर कीजिये ।

दरभंगा जिले मे जयनगर है जहां से हमारे संसद् के सदस्य श्री भोगेन्द्र झा हैं । जयनगर रक्सौल और फारबेसगंज नेपाल के बार्डर पर है और वहा बहुत तस्करी होती है । कुछ दिन पहले जयनगर में एक कस्टम इन्स्पैक्टर को तस्करी करते हुए जनता ने पकडा । उसको 4 जिला मजिस्ट्रेटों, डिस्ट्रीक्ट मजिस्ट्रेट दरभंगा, मधुबनी और दो दूसरे जिले के थे उनके सामने पेश किया गया । डिस्ट्रिक्ट मजिस्ट्रेटों ने उसके खिलाफ कोई कार्यवाही नही की, उसे छोड़ दिया । उल्टे, जिन लोगों ने उसको पकड़ा था, उनके खिलाफ कार्यवाही की गई, काउन्टर केस किया गया । मैं चाहता हूं कि मंत्री जी इस बात की जाच कराये और अगर यह बात सच हो तो चारों जिला मजिस्ट्रेटों के खिलाफ कार्यवाही की जानी चाहिये कि उन लोगों ने तस्करी करने वाले कस्टम अफसर की हिमायत क्यों की । इसका आपको पता लगाना चाहिये

दरभंगा जिले में बासोपट्टी एक जगह है । वहा का बी० डी० ओ० तस्करी करते हुए पकड़ा गया । उस बी० डी० ओ० के खिलाफ़ बिहार सरकार ने तो जरूर कार्यवाही की, लेकिन मैं जानना चाहता हूं कि वहां के कस्टम आफ़िसरों ने सरकार को इस बारे में क्या रिपोर्ट दी हैं और क्या कार्यवाही की है ।

[श्री रामअवतार शास्त्री]

कहा जाता है कि बंगलौर के ईस्ट एंड वैस्ट होटल का मालिक हाजी मस्तान है । मैं जानना चाहता हूं कि क्या सरकार ने इस बात की जांच-पड़ताल की है कि वह होटल किस का है । अगर सचमुच में हाजी मस्तान या किसी भी अन्य स्मगलर से उस का ताल्लुक है, तो सरकार उस होटल को अपने कब्जे में क्यों नहीं कर लेती है ? सरकार को उस होटल पर कब्जा करना चाहिए ।

बिहार में सरकार के अफ़सर गड़बड़ करते हैं । मैं इस बारे में एक-आध दफ़ा पत्र भी लिख चुका हूं । सरकार को उन पर अंकुश लगाना चाहिए । नेपाल से बहुत सा सामान हमारे यहां आता है । आप चल कर ट्रेन में देखिये कि लोग कपड़ा वगैरह बेचते रहते हैं । कोई बंदिश नहीं है । बिहार और नेपाल के बार्डर पर हमारे देश से चावल और कपड़े आदि बहुत सी चीजों की स्मगलिंग होती है । इस को रोकने के लिए सरकार ने क्या व्यवस्था की है । इस आपातकालीन स्थिति के दौरान सरकार ने उस क्षेत्र के कितने अफ़सरों को पकड़ा है या उन को चुस्त-दुरुस्त किया है, ताकि वे सीमा की ठीक तरह से हिफ़ाजत कर सकें ? नेपाल के स्मगलर हमारे देश में और हमारे देश के स्मगलर नेपाल में दुकान रखे हुए हैं और उन दोनों में पारस्परिक सम्बन्ध है । उन दुकानों पर कब्जा किया जाना चाहिए । तभी सरकार स्मगलिंग को खत्म कर सकती है ।

SHRI PRANAB KUMAR MUKHERJEE: Sir, in fact, the hon. Member has given some information and I have taken note of it. Regarding the Indo-Nepal border, we are fully aware of the problem and a central collectorate has been created. We are making a constant review to see that the smuggling activities are reduced.

MR. CHAIRMAN: The question is: "That the Bill be passed."

The motion was adopted.

17.54 hrs.

FINANCE (AMENDMENT) BILL, 1975

THE MINISTER OF FINANCE (SHRI C. SUBRAMANIAM): Mr. Chairman, Sir, I beg to move:

> "That the Bill to amend the Finance Act, 1975, be taken into consideration."

Sir, in her broadcast to the nation on July 1, 1975, the Prime Minister had announced Government's decision to raise the exemption limit for income-tax from Rs. 6000/- to Rs. 8000/- I have brought forward this Bill to implement this decision.

The Bill seeks to replace the rate schedules in Finance Act, 1975, applicable in the case of individuals and Hindu undivided families for the purposes of reduction of income tax at source from 'Salaries' and payment of advance tax during the financial year 1975-76.

Under the existing rate schedule applicable in the case of individuals and Hindu undivided families, either than those having at least one member with taxable income exceeding the exemption limit, the rate of income-tax on the first slab of income upto Rs. 6,000 stands at nil, on the slab of Rs. 6,001 to Rs. 10,000 at 12 per cent and on the slab of Rs. 10,001 to Rs. 15,000 at 15 per cent. Under the new rate schedule, the rate of income-tax on the 1st slab of income upto Rs. 8,000 is proposed to be fixed at nil. In order to moderate the extent of the benefit accruing to tax payers in higher income brackets by reason of the exemption limit being raised from Rs. 6,000 to Rs. 8,000 the rate of income tax on the new slab of Rs. 8,001 to Rs. 15,000 is being fixed at 17 per cent. The effect of the proposed changes will be that while a tax payer having taxable income of Rs. 8,000 will get a relief of

Rs. 264, the benefit will get gradually reduced in the case of persons with taxable income exceeding Rs. 8,000 and will be only Rs. 44 in the case of persons having taxable income of Rs. 15,000 or more.

Hindu undivided families having at least one member with taxable income exceeding Rs. 6,000 are charged to tax at higher rates as compared to indivi-dauls. The rates of income tax in the case of such Hindu undivided families on the income in any slab are the same as those in the case of individuals on the next higher slab In view of the modifications proposed in the rate schedule applicable in the case of indi-viduals, the Bill seeks to make two changes in these provisions. Firstly, the higher rates of income tax are pro-posed to be made applicable in the case of Hindu undivided families having at least one member with tax-able income exceeding Rs. 8,000. Se-condly, the rate of incometax on the first slab of income upto Rs. 8,000 is proposed to be fixed at nil and on the new slab of Rs. 8,001 to Rs. 15,000 at 20 per cent.

The scheme of partially integrated taxation of non-agricultural income with income derived from agriculture is currently applicable in the case of individuals and Hindu undivided fami-lies, who have no-agricultural income exceeding Rs. 6,000. With the raising of the exemption limit, the Bill seeks to provide that this scheme will apply in the case of taxpayers who have non-agricultural income exceeding Rs. 8,000.

No change has been proposed in the rate of schedules for charging income-tax for the assessment year 1975-76, that is, in respect of incomes earned during the financial year 1974-75 or any other corresponding account year. The proposed changes will result in a loss of revenue of about Rs. 21 crores in a full year and about Rs. 12.6 crores during the financial year 1975-76.

The proposed modifications in the rate schedules will result in a slight reduction in the liability for payment of advance tax during the current financial year, necessitating a revision of the advance tax notices already issu-ed by the Income Tax Officers. As the revision of these notices would have thrown up considerable adminis-trative work, the Bill seeks to provide that these advance tax notices will have effect as if they had been revised on the basis of the new rate schedules. The excess amount of advance tax, if any, paid by a taxpayer in an instal-ment due on the 15th June 1975 will be adjusted against the amount pay-able in the next instalment due on the 15th September, 1975.

The raising of the exemption limit will provide some relief to taxpayers in the lower and middle income brac-kets and I am confident that the Bill will receive the unanimous support of the House. I move.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend the Fin-ance Act, 1975, be taken into consi-deration".

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, July 24, 1975/Sravana 2, 1897 (Saka)

GMGIPND—1130 L.S.—SI—16-8-75—978